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February 28, 2024

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

From: Kira Wilpone-Welborn, Assistant Attorney General
Consumer Protection Division

Re: Senate Bill 481 – Tenants' Rights and Stabilization Act of 2024 (SUPPORT)

The Consumer Protection Division of the Office of the Attorney General (the "Division") supports Governor Moore's Senate Bill 481 that seeks to promote additional protections, funding, and opportunities for tenants, and to put systems in place to help decrease tenant displacement and preserve single-family residential units that are affordable to low- and moderate-income households. In particular, Senate Bill 481 seeks to expand tenants' rights and protections, and increase funding, by: (1) increasing the eviction filing fee in Maryland and distributing the additional funds to Maryland's Access to Counsel Program and Statewide Rental Assistance Voucher Program; (2) decreasing the maximum security deposit a landlord is permitted to collect to one month's rent; and (3) creating an Office of Tenants' Rights housed in the Department of Housing and Community Development. Additionally, Senate Bill 481 seeks to decrease tenant displacement and preserve affordable housing for low- and moderate-income households by mandating a tenant's right of first refusal. Landlord-Tenant complaints are the single largest number of complaints the Division's Mediation Unit receives each year. The proposed components of Senate Bill 481 would address many of the complaints the Division receives.

Filing Fee Increase:

First, Senate Bill 481 represents a renewed attempt to bring Maryland's eviction filing fee in line with other states and to provide needed funding for the Maryland Legal Services Corporation and the newly created Statewide Rental Assistance Program. Senate Bill 481 would

increase the surcharge assessed in failure to pay rent, breach of lease, and tenant holding over actions from \$8 to \$93. The bill would also prevent landlords or the courts from requiring tenants to cover the cost of the surcharge, which would protect tenants who are already struggling to make ends meet from having to shoulder additional financial burdens. Housing instability has persisted in Maryland since well before the pandemic¹ and continues to foist the associated negative effects onto communities of color.²

Importantly, Senate Bill 481 would distribute the proceeds of any filing fee increase to two housing programs recently adopted by the Legislature: (1) the Access to Counsel in Evictions Program, and (2) the Statewide Rental Assistance Voucher Program. Maryland was the second state in the Nation to adopt a program to provide legal representation to qualified tenants in eviction court.³ Likewise, the Legislature in 2023 adopted a Statewide Rental Assistance Voucher Program to provide access to affordable housing to families languishing on federal subsidized housing waitlists. While the Legislature has provided initial funding for each program, the Access to Counsel Task Force has recognized that “[w]ithout question, the success and effectiveness of the Program hinges on a continuous and stable source of funding.”⁴ The funding structure proposed by Senate Bill 481 would provide both programs with stable funding that is necessary for their continued success in serving the most vulnerable of Maryland’s tenants.

Security Deposit Decrease to One Month’s Rent:

Presently, a landlord may not require a tenant to pay a security deposit that exceeds the equivalent of two months’ rent per dwelling unit, regardless of the number of tenants. Md. Code Ann., Real Prop. §8-203(b). Senate Bill 481 would reduce a tenant’s security deposit liability to one month’s rent and bring Maryland in line with at least thirteen other states,⁵ including Maryland’s neighbors -- Washinton D.C. and Delaware. Reducing the maximum amount a

¹ See Joint Center for Housing Studies of Harvard University, “America’s Rental Housing 2024,” at 18-19 (2024) available at

https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Americas_Rental_Housing_2024.pdf (“In total, [since 2012], the market lost 6.1 million units renting for less than \$1,000, the maximum amount affordable to a household earning \$40,000 per year.”).

² It is well documented that the majority of tenants evicted are Black mothers with minor children. See Public Justice Center, “Justice Diverted: How Tenants are Processed in the Baltimore City Rent Courts,” (December 2015); and Matthew Desmond *et al.*, “Forced Relocation and Residential Instability among Urban Tenants,” 89 Soc. Serv. Rev. 227 (2015).

³ House Bill 18, available at

<https://mgaleg.maryland.gov/mgaweb/Legislation/Details/HB0018?ys=2021rs>.

⁴ Access to Counsel Task Force, “Report of the Access to Counsel Taskforce” at 45 (January 2024), available at https://www.marylandattorneygeneral.gov/A2C_Docs/2024_ACE_TF_Report.pdf.

⁵ Alabama, Ala. Code § 35-9A-201(a); California, Cal. Civ. Code § 1950.5(c); Delaware, 25 Del. C. § 5514(a)(2), (a)(3); Washington D.C., D.C. Mun. Regs. tit. 14, § 308.2; Hawaii, HRS § 521-44(b); Kansas, K.S.A. 58-2550(a); Massachusetts, M.G.L. c. 186, § 15B(1)(b)(iii); Nebraska, Neb. Rev. St. § 76-1416(1); New Hampshire, N.H. RSA §§ 540-A:6(I)(a); New York, N.Y. Gen. Oblig. Law § 7-108(1-a)(a); North Dakota, N.D.C.C. § 47-16-07.1(1); Rhode Island, R.I. Gen. Laws § 34-18-19(a); and South Dakota SDCL 43-32-6.1.

landlord could charge as a security deposit would ease the financial burden Maryland tenants face when trying to enter new rental housing.

Office of Tenants' Rights:

Senate Bill 481 also seeks to create an Office of Tenants' Rights within the Department of Housing and Community Development. The Office of Tenants' Rights would serve as an education resource for tenants through the creation of an annual Tenants' Bill of Rights and other resources. Landlord-tenant complaints are the largest subsection of complaints the Division receives each year. The creation of additional resources for tenants to understand their rights when faced with disputes with their landlords will assist the Division in mediating and investigating the complaints it receives.

Tenant Rights of First Refusal:

Finally, Senate Bill 481 seeks to create a right of first refusal for tenants residing in residential property when the owner has received a bona fide proposed contract of sale from a third party. Providing tenants with the opportunity to purchase the residential unit they are already residing in decreases displacement and preserves housing affordability and stability within communities.⁶ In fact, the Coalition for Nonprofit Housing and Economic Development found that Washington D.C.'s tenant right of first refusal law, since 2006, has preserved 16,224 affordable housing units, reduced displacement, and improved housing conditions.⁷ The Division has consistently supported legislative efforts that increase housing affordability and community continuity. Senate Bill 481's tenant right of first refusal would provide Maryland's low- to moderate-income tenants additional avenues to affordable homeownership while reducing tenant and community disruptions.

For the reasons stated above, the Consumer Protection Division supports Senate Bill 481 and requests the Judicial Proceedings Committee provide a favorable report.

cc: Members, Judicial Proceedings Committee

⁶ See Coalition for Nonprofit Housing and Economic Development, "Sustaining Affordability" at 5 (November 15, 2023) available at <https://cnhed.org/news/cnhed-releases-comprehensive-analysis-of-dcs-tenant-opportunity-to-purchase-act-topa/> ("[D.C.'s tenant right of first refusal] law addresses the complexities of gentrification, escalating housing costs, and displacement, particularly when affecting marginalized communities. By affording tenants the chance to purchase their rental properties during sales, [the right of first refusal] aims to ensure housing security, tenant empowerment, and affordability.").

⁷ *Id.* at 6.