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

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

Re: Senate Bill 946 – Landlord and Tenant - Failure to Repair Serious and Dangerous Defects  
- Tenant Remedies (Tenant Safety Act of 2024) (SUPPORT)

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The Consumer Protection Division of the Office of the Attorney General (the “Division”) supports Senate Bill 946, the Tenant Safety Act, sponsored by Senator Ariana B. Kelly. 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 complaint by having landlord 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. 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. As a result, 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. Senate Bill 946 seeks to remedy the present deficiencies in Real Property Article § 8-211 by modifying the statute in four primary ways.

First, Senate Bill 946 clarifies that the presence of mold in a residential unit that “presents a serious and substantial threat to the health of the occupants” is a condition that a landlord should eliminate and that, if left unabated, can form the basis of a rent escrow action or an affirmative defense in any failure to pay rent eviction proceeding. Explicitly identifying mold that is a threat to the health of occupants as a condition governed by Real Property Article § 8-211 will assist tenants in rent escrow actions and failure to pay rent eviction proceedings and the Division in mediating complaints it receives from consumers about unabated mold growth in their residences. Section 8-211(e)(5) currently covers “any condition which presents a health . . . hazard. . . .” However, specifically listing mold in § 8-211 will help tenants facing a health hazard from mold, particularly those who lack legal representation.

Second, Senate Bill 946 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. Senate Bill 946’s codification of the warranty of habitability 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, and (2) make it clear that the breach of warranty action does not require the tenant to make rental payments into the court.

Third, Senate Bill 946 would permit similarly situated tenants to bring a rent escrow action against their landlord for similar claims of unaddressed health and safety violations through Maryland’s joinder rules. 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 may 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. Senate Bill 946’s expansion of § 8-211 to similarly situated tenants through joinder would allow 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.

Finally, Senate Bill 946 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 tenants with much-needed representation in rent escrow actions because their fees and costs can be reimbursed.

Accordingly, the Division requests that the Judicial Proceedings Committee give Senate Bill 946 a favorable report.

cc: The Honorable Ariana B. Kelly  
Members, Judicial Proceedings Committee