Senate Bill 609

Committee: Judicial Proceedings
Bill: Senate Bill 609: Residential Leases - Use of Algorithmic Device by Landlord to Determine Rent - Prohibition
Date: 2/11/25
Position: Unfavorable

The Maryland Multi-Housing Association (MMHA) is a professional trade association established in 1996, whose members house more than 538,000 residents of the State of Maryland. MMHA's membership consists of owners and managers of more than 210,000 rental housing homes in over 958 apartment communities and more than 250 associate member companies who supply goods and services to the multi-housing industry.

Senate Bill 609 ("SB 609") prohibits a landlord from using certain algorithmic devices to determine the amount of rent to charge a residential tenant; making a violation of the Act an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act; and applying the Act prospectively.

MMHA urges an unfavorable report on SB 609 for the following reasons:

I.   **SB 609 is based on a false pretext.**

SB 609 relies on a premise that housing providers, who pay for algorithm devices to utilize the nonpublic competitor data, for the purpose of justifying higher rent prices and creating an artificial inflation in rent prices as more and more housing providers use the device.

This is incorrect. These devices are no more than a "tool in the toolbox" that housing providers use when determining the price of a unit to go on market. **It is a recommendation; not a final say or answer to the price of a unit that is made by housing provider staffers at the time of signing the lease**. Housing providers use a variety of other tools, such as paid real estate market research from entities like "Co-Star" to help formulate prices. And once a price has been determined, the housing provider may try to lower or exceed that recommendation based on internal information or goals that they may have (for example: if a housing provider had high vacancies in a building, they may try to undercut the recommended price to get more tenants). This is why, according to RealPage, recommendations from that algorithm device are only accepted about 35% of the time by housing providers.

II.   **Limiting the nonpublic competitor data may stagnate or increase rent prices.**

While MMHA will defer to specific algorithm devices on how their formulas are set, in general, we know that by limiting the data as intended, this may lead to outdated pricing being recommended to housing providers. As Maryland grapples with the housing crisis, concrete measures have been taken by the Maryland General Assembly and other municipalities to encourage growth and increase the supply of housing. Once the results of this come to fruition, the nonpublic competitor data may become the first to indicate a need for recommending lower rental prices based on its evaluation of executed leases. We know that this has happened in places like

Austin, TX. By limiting ourselves on this data, rental prices may continue to stagnate for an extended period and burden the Maryland consumer.

Additionally, as the nonpublic competitor data utilizes the executed leases, and not the "sticker" prices of apartments that can be found on the public site, **algorithm devices using nonpublic competitor data tends to recommend lower figures that of algorithm devices using only publicly available data.** Therefore, by pursuing SB 609, the state may de facto encourage higher rental prices due to the higher price recommendations.

III.   Scope of the legislation.

While the stated goal behind SB 609 is to curtail the utilization of "nonpublic competitor data" by housing providers with the assistance of algorithm devices such as those provided by RealPage, MMHA is concerned that this legislation as written goes far beyond this intent. Specifically, the concern is with 8-220 (B) lines 20-25 on page 3:

> IN SETTING THE AMOUNT OF RENT TO BE CHARGED FOR THE LEASE OF RESIDENTIAL PROPERTY, INCLUDING DETERMINING ANY CHANGE IN RENT TO BE CHARGED FOR THE RENEWAL OF A LEASE, **A LANDLORD MAY NOT EMPLOY, USE, OR RELY ON, OR CAUSE ANOTHER TO EMPLOY, USE, OR RELY ON, AN ALGORITHMIC DEVICE THAT USES, INCORPORATES, OR WAS TRAINED WITH NONPUBLIC COMPETITOR DATA.**

Based on that definition, if you were to use real estate market data (for example: Co-Star) and input the data into a Microsoft excel spreadsheet, you may have just broken the law under SB609.

IV.   On-going litigation.

On January 15th, Maryland Attorney General Anthony Brown sued RealPage and a number of housing providers for allegedly "… collude[ing] Through RealPage's Centralized Price-Setting Algorithms to Raise Rent Prices in Violation of the Maryland Antitrust Act."[1]. While MMHA has no comment on the pending litigation, it is worth noting that the conclusion of the litigation would have major implications on the premise of this legislation. It would be prudent for the Maryland General Assembly to await the results of this litigation before tailoring public policy around the premise of a case that has yet to be decided.

For all these reasons, MMHA would respectfully request an **<u>unfavorable report</u>** on SB 601.

Please contact Matthew Pipkin, Jr. at (443) 995-4342 or mpipkin@mmhaonline.org with any questions.

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[1]Maryland Office of the Attorney General. (2025, January 15). *Attorney General Brown sues RealPage and residential landlords for illegally raising rent for thousands of Maryland residents through price-fixing scheme*. https://www.marylandattorneygeneral.gov/press/2025/011525a.pdf