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February 7, 2025

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

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

Re: Senate Bill 609 – Residential Leases - Use of Algorithmic Device by Landlord to
Determine Rent - Prohibition (FAVORABLE WITH AMENDMENT)

The Consumer Protection Division of the Office of the Attorney General (the “Division”) supports Senate Bill 609 sponsored by Senators Sara Love and Katie Fry Hester. Senate Bill 609 prohibits landlords from utilizing algorithms built on private competitor data to set rents. Increasingly, landlords have resorted to using these algorithms at the detriment to competition and tenants’ pocketbooks. Although these practices likely already violate the Consumer Protection Act, Senate Bill 609 would specifically enumerate that using algorithms to set rents is an unfair, abusive, and deceptive practice as defined and enforced under the Consumer Protection Act.

The Division supports Senate Bill 609 reifying that the use of algorithms containing private competitor data is a violation of the Consumer Protection Act because it distorts the market and results in tenants paying more for rent. However, the Division recommends that the definition of “rent” at § 8-220(A)(4) be amended to conform to the definition of rent affirmed by the Maryland Supreme Court in *Westminster Mgmt., LLC v. Smith*, 486 Md. 616 (2024). Specifically, rent is “the fixed, periodic payments that a tenant pays the landlord to reside in the rental unit.” *Id.* at 651; *see also Lockett v. Blue Ocean Bristol, LLC*, 446 Md. 397, 425 (2016) (rent is “the periodic sum owed by the tenant for use or occupancy of the premises.”) Presently, the definition of rent proposed in the bill includes additional fees that are impermissible under *Westminster* and *Lockett* and could create doubt as to what rent is. As such, the Division recommends an amendment that conforms the definition of rent in the bill to *Westminster* and *Lockett*.

As such, the Division requests that the Judicial Proceedings Committee give Senate Bill 609 a favorable report with the proposed amendment.

cc: The Honorable Sara Love
The Honorable Katie Fry Hester
Members, Judicial Proceedings Committee