



Bill: **House Bill 104- Unhoused Individuals - Rights, Civil Action, and Affirmative Defense**

Committee: **Judiciary**

Date: **February 3, 2026**

Position: **Unfavorable**

The Apartment and Office Building Association (AOBA) of Metropolitan Washington is a non-profit trade association representing the owners and managers of more than 23 million square feet of commercial office space and 133,000 apartment rental units in Montgomery and Prince George's counties. AOBA submits the following testimony in opposition to House Bill 104.

HB 104 prohibits counties from imposing civil or criminal penalties against unhoused individuals for life-sustaining activities in public places. Life-sustaining activities include eating, drinking, sleeping, or sheltering from the elements. It also grants unhoused individuals an affirmative defense against criminal trespass, disorderly conduct or disturbing the peace charges when committing life-sustaining activities in public places.

While AOBA does not support criminalizing poverty or homelessness, members are concerned that HB 104 will exacerbate issues with unhoused individuals in Central Business Districts (CBDs); the affirmative defense provision will make nuisance behavior more difficult to regulate; and the bill misinterprets the unhoused living experience.

1. Central Business Districts

CBDs are mixed-use commercial areas that often have public and private places directly abutting one another. Montgomery County has several CBDs, including Wheaton, Silver Spring, and Bethesda. AOBA members in these areas frequently express concerns with unhoused individuals harassing tenants or otherwise committing nuisance behavior in the public spaces that abut their properties. This bill will only exacerbate this issue by giving unhoused individuals the right to occupy public places in perpetuity regardless of its proximity to private property.

2. Nuisance behavior



Tenants and property management staff are often left with little recourse for dealing with harassing, unwelcome or nuisance behavior from unhoused individuals. This behavior either fails to rise to a level of criminality for law enforcement to deal with or it must be directly observed by a law enforcement officer for them to act. For example, an unhoused individual in a public place next to an apartment can get away with making lewd comments or gestures towards a female tenant of the building if the individual does not get physical with her. Providing an affirmative defense for criminal behavior by unhoused individuals will only make it more difficult to regulate this behavior.

3. The unhoused living experience

HB 104 presumes that unhoused individuals never have access to alternate indoor spaces for shelter, but that isn't always the case. Unhoused individuals frequently turn down offers to be relocated to county or non-profit shelters. Unhoused individuals may turn down this assistance out of fear that their belongings will be stolen or that their personal safety may be at risk by going to a shelter. The state needs a policy solution that focuses on the causes of being unhoused rather than focusing on the symptoms. AOBA believes that the solution is to make housing and shelters safer and more accessible to unhoused individuals.

For these reasons, AOBA urges an unfavorable report on House Bill 104. For more information, please contact Hugo Cantu at hcantu@aoba-metro.org.