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February 19, 2021

To: The Honorable Kumar P. Barve  
Chair, Environment and Transportation Committee

From: Kira Wilpone-Welborn  
Consumer Protection Division

Re: House Bill 1201 – Real Property - Residential Lease Provisions - Responsibility of  
Tenant for Maintenance and Repair (OPPOSE)

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The Consumer Protection Division of the Office of the Attorney General opposes House Bill 1201 sponsored by Delegate Frank M. Conaway, Jr. because it allows landlords to shift the obligation to service and maintain landlord owned heating and cooling units to tenants.

Presently, Maryland's rent escrow law found at Md. Code Ann., Real Prop, §8-211 “imposes an obligation upon landlords to repair and eliminate conditions and defects which constitute, or if not promptly corrected will constitute ... a serious and substantial threat to the life, health or safety of occupants, including, but not limited to: (1) lack of heat.” Likewise, across Maryland, local jurisdictions have imposed similar obligations through local ordinances requiring owners to provide and maintain heating and cooling systems in residential property offered for rent in accordance with local housing and building codes. *See e.g.*, Code of Public Local Laws of Baltimore City, Subtitle 9-9 (“Where property situated in the City of Baltimore is leased for the purpose of human habitation, the tenant of such property may assert that there exists upon the leased premises... a condition or conditions which constitute, or if not promptly corrected, will constitute a fire hazard or serious threat to the life, health, or safety of occupants thereof, including but not limited to, a lack of heat...”); Frederick County Code § 1-6-43, 1-6-45 (“Each housing unit shall be supplied with sufficient heat or heating equipment capable of supplying sufficient heat during the period from October 1 to May 15 to maintain a room temperature of not less than 65°F”); Howard County Code Sec. 17.1010 (Prohibiting a landlord to “[r]equire that the tenant pay to replace or repair structural elements of the building, major appliances, or electrical, plumbing, heating, or air conditioning systems”); Montgomery County COMCOR 26.00.01, *et al.* and 29.22.01; Prince George’s County Code, Subtitle 13 §13-153; St. Mary’s County Code § 236-14; 236-17 (“All mechanical equipment used for heating and cooking shall be properly installed and safely maintained in good working condition and shall be capable of

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performing the function for which it was designed and intended.”); Worcester County Code § BR 3-101; 3-110(a)-(b) (“Each housing unit shall be supplied with sufficient heat or heating equipment...” and “When facilities for interior climate control (heating, cooling and humidity) are integral functions of housing units, these facilities shall be maintained and operated in accordance with the designed capacity.”).

House Bill 1201 would undermine the stated purposes of Maryland’s rent escrow law and local housing and livability laws by allowing landlords to unilaterally impose on tenants in a lease agreement the non-delegable responsibility of heating and cooling system maintenance. As the Maryland Court of Appeals has noted: “Residential leases are more likely to be provided on a take-it-or-leave-it basis and, as here, to be provided after the tenant has already agreed to lease the premises and to be signed by the tenant without being read.” *Lockett v. Blue Ocean Bristol, LLC*, 446 Md. 397, 419–20 (2016). The Division’s Mediation Unit receives myriad emergency complaints each year that landlords have failed to repair heating and cooling systems leaving tenants without heat or air. Allowing landlords to insert into a take-it-or-leave-it lease provision the requirement that tenants are unilaterally responsible for maintenance or repair of heating and cooling systems is unfair, and abusive.

For these reasons the Division requests that the Environment and Transportation Committee give House Bill 1201 an unfavorable report.

cc: The Honorable Frank M. Conaway, Jr.  
Members, Environment and Transportation Committee