



Senate Bill 530
Landlord and Tenant – Eviction Actions – Filing Surcharge and
Prohibited Lease Provisions
Before the Senate Judiciary Proceedings Committee, Feb. 26, 2021

Position: FAVORABLE

Renters United Maryland (RUM) is a statewide coalition of renters, organizers, and advocates for safe, stable housing. We stand on the principle that housing is a human right that is critical to an individual’s quality of life, the health of families, and the prosperity of communities. The following members of Renters United Maryland urge a FAVORABLE report on SB 530:

Public Justice Center	Homeless Persons Rep. Project	CASA De Maryland
Mont. County Renters’ Alliance	Santoni, Vocci & Ortega, LLC	Eva Rosen, Ph.D., Georgetown Univ.
Catholic Charities	Right to Housing Alliance	Ches. Physicians for Social Respons.
Strong Future Maryland	Health Care for the Homeless	Md. Access to Justice Commission
Md. Legislative Coalition	Communities United	Md. Ctr. on Economic Policy
Our Revolution, MD	Beyond the Boundaries	Civ. Advoc. Clinic, Univ. of Baltimore
Jews United for Justice		

Housing Court must be about Housing Justice – not the frontline of landlord debt collection. Today in Maryland the opposite is true. Over 660,000 eviction complaints are filed each year (pre-pandemic) with only approximately 730,000 renter households in the state.

Why? Because the General Assembly has given landlords cheap, easy access to a state-financed debt collection system called “rent court” to obtain rent/repossession. According to the Attorney General, other states charge an average of \$122 per filing for eviction; Maryland charges \$15 per filing – one of the lowest in the country. Service of process costs only \$5 for first-class mailing and posting to the leased property (“nail and mail” service). Most other states require landlords to send a pre-filing notice to the tenant: “Pay \$xx within 10 days or we will file a complaint.” Maryland does not.

One part of the solution: SB 530 removes the incentive for landlords to file for eviction each month on the 6th if the tenant is only one day late with the rent. [Eighty-four percent](#) of Baltimore City eviction actions are filed with only one month’s rent due. Under SB 530, landlords will be incentivized to send a notice to the tenant first, reminding the tenant to pay. Landlords will have an incentive to work out a payment plan or even make repairs to the roof so that the tenant will pay the rent and landlords will not need to file a more expensive eviction action. Raising the surcharge was a key recommendation of the Attorney General’s Task Force that produced [Confronting the COVID-19 Access to Justice Crisis](#).

SB 530 must retain strong protections against landlords passing on these surcharges to the very tenants who are desperately trying to avoid eviction. SB 530 does that by stating that the court may not pass on the surcharge to a tenant in an eviction action, and the landlord may not pass on the surcharge to a tenant in a lease provision. The bill also provides a remedy to the tenant if the landlord does so. There are a number of provisions in Maryland law that stop creditors from passing on certain

fees to debtors including some mortgagee inspection, escrow, and servicing fees. *See, e.g.*, Md. Code Ann., Com. Law 12-121(b) and 12-109.2. The benefits of a uniquely swift summary ejectment/collection process accrue to the landlord, and so this additional surcharge should stay with the landlord.

Leaving the assessment of the surcharge to “judicial discretion” as some landlords have requested only reinforces the status quo in which tenants almost always pay. “Judicial discretion” is what happens now. In all default judgments or judgments in favor of the landlord, the Court may award court costs against the tenant right now, and the Court routinely does so. The assessment of costs, while already discretionary under Real. Prop. § 8-401, is virtually automatic in practice. Even if the case does not go to trial – perhaps because the tenant has a defense and the landlord voluntarily dismisses the case – the landlord still assesses the court costs against the tenant via a lease provision allowing them to do so. “Judicial discretion” means, in practice, that the tenant almost always pays.¹ It is unconscionable for landlords to pass on any additional fee or charge directly to tenants already most at risk of eviction.

Serial complaint filing also causes tenants to fall further and further in debt. Right now, landlords often file on the 6th of each month and add additional fees to the ledger thereby digging a deeper hole -- even if the tenant only owes \$300 or is one day behind. Under the current regime, even if the tenant is only one day late or only owes \$300, the landlord adds to the tenant’s ledger a 1) 5% late fee, 2) court filing fee of \$20 to \$30, and 3) often an “agent fee” (a fee to cover additional, purported administrative costs). These additional fees make it even harder for tenants to catch up. Landlords will still maintain their 5% late fee, but SB 530 will provide an incentive for the landlord to send a notice first, work out a payment plan, or fix a habitability issue before filing for eviction.

Serial complaint filing is a significant problem for tenants who want to defend their eviction cases. If a renter has a defense to the eviction complaint, they must take off work, find alternative childcare, rearrange medical appointments and show up at court often with as little as 2 days’ notice! Contrary to assertions by Md. Multi Housing Assoc., renters have many defenses in these cases. In one 2016 survey of tenants who were at court, 80% had a defense. [Sixty-eight percent of tenants had a defense based on uninhabitable conditions](#) in the property (but only 8% of tenants were able to successfully raise the defense *pro se*). Other non-habitability-related defenses include that the landlord lacks a license/lead registration; accounting errors in the ledger; seeking excessive fees and non-rent charges; and wrongfully trying to foreclose the right to redeem.

Landlords are quick to blame the tenant’s “right of redemption” in Maryland for the high filing rate, but a comparison to D.C. reveals that this is misleading. The right of redemption, also known as the right to “pay and stay,” means that the tenant can pay off a rent judgment anytime before the eviction for three judgments in a 12-month period. On the 4th judgment (5th in Balt. City), the landlord can foreclose that right. *Maryland has an eviction complaint filing rate of 2.35 cases per cost-burdened*

¹ There is one exception: In the approximately 2,600 cases (2,602 in FY 2019) involving rent escrow each year, if the court finds in favor of the tenant, the court will likely not award the landlord costs.

*renter household (2019 ACS & Judiciary data). D.C. has an eviction complaint filing rate of 0.54 cases per cost-burdened household (2018-29 DC Court & ACS data). D.C. has a right to redeem just like Maryland. So why the difference in filing rate? D.C. reduces the easy access of landlords to filing and litigating by requiring a pre-filing notice and allocating almost \$5 million/year to representation for tenants. To further reduce the filing of eviction complaints, D.C. is considering raising the cost of filing to \$100. **D.C. has recognized that by removing the special access that landlords receive to an incredibly cheap, low-entry-barrier eviction process, the district can reduce serial filings and create a fairer system for all.***

The disparate impact of the eviction crisis on Black households cannot be overstated: [According to State DHCD 35.5% of Black renters in Maryland are facing eviction compared to 13.9% of White renters](#). The well-documented systemic and institutionalized racism in housing, income, wealth, and so many other markers of human thriving have been exacerbated by this pandemic. The question is whether the General Assembly will have the courage to act and address the nature of the eviction process driving the crisis and resulting disparate impact on Black and brown communities.

Nothing is more dehumanizing in our civil legal system than the current “cattle call” approach to failure-to-pay-rent eviction cases. Raising the filing surcharge is a critical component of reducing the number of eviction cases, funding a right to counsel in eviction cases, and restoring the court as a place of housing justice instead of a cheap, easy way for landlords to quickly collect alleged debts.

The RUM Members listed above urge the Committee to issue a FAVORABLE report on SB 530.