



Zafar Shah Attorney
Public Justice Center
201 North Charles Street, Suite 1200
Baltimore, Maryland 21201
410-625-9409, ext. 237
shahz@publicjustice.org

SB 130 - Landlord and Tenant – Failure to Pay Rent – Fee Limit During Emergencies
Hearing before the Senate Judicial Proceedings Committee, Jan. 28, 2021

Position: Favorable With Amendment

The Public Justice Center is a not-for-profit, civil legal aid organization that provides legal advice and representation to over 700 renters each year throughout Maryland. During the COVID-19 pandemic, our clients have struggled with job loss, health risk, and housing insecurity and join an estimated **109,000 to 204,000 Maryland households facing the risk of eviction** as 2020 ended. Because of the economic devastation wrought by the pandemic, these households are carrying a **rental debt burden that is estimated between \$206 million and \$381 million**. At this level of financial crisis, **it helps no one to pile late fees atop rental debt and other mounting household expenses.**

For this reason, Public Justice Center supports SB 130. However, we also urge changes to the bill that would ensure its effectiveness in protecting struggling Maryland households.

SB 130, in essence, provides a time-limited protection from late fees on rent during state-declared emergencies – this would apply beyond the COVID-19 emergency. The bill intends to limit impacted households' exposure to financial harm during an emergency by simply removing the harm of late fees, which are typically charged at the rate of 5 percent of the monthly rent. At median rent, late fees equate to approximately **\$70.00 per month**.

SB 130 includes two provisions that inadvertently would exclude many households from the bill's protection:

- First, "impacted renter" is defined to cover only those who suffer at least a 50 percent loss of income due to the emergency at issue. This proportional formula for covering certain renters, instead of all, creates absurd results wherein, for example, a \$200,000 income household suffering a 50% loss would benefit from late-fee protection but a \$35,000

income household suffering a 25% loss would be excluded. The financial peril of the latter household is greater and warrants SB 130's protection from unnecessary fees.

- Secondly, SB 130 goes beyond requiring a tenant, on a monthly basis, to notify the property management of their loss of income. A landlord may then request *any* document "that demonstrates that the tenant is an impact tenant." This provision puts a virtually unlimited burden on tenants, amid an emergency and financial upheaval. The bill does not identify whether the property management must accept submitted documentation, thereby leaving tenants vulnerable to repeated requests for more documentation and, inevitably, a run-around that effectuates a denial of the late-fee protection.

While a protection based on loss of income and notice thereof is rational, SB 130 contrasts similar emergency protections that arose amid the COVID-19 emergency. For instance, Prince George's County, Howard County, Baltimore City, and Frederick were among local jurisdictions that passed emergency legislation in 2020 amid the pandemic to prohibit rental property operators from charging late fees and other penalties for late payment or non-payment of rent. These laws do not require an income test, nor do they require tenants to send notifications to landlords and provide documentation of eligibility. These local laws have broad reach and reduce burdens on the people that legislators intend to protect.

SB 130 also contrasts the Governor's executive order on evictions, which extends only to renter households that have suffered a "substantial loss of income." Instead of tying that threshold to a percentage loss, the Governor's order defines "substantial loss" broadly.

In summary, **Public Justice Center recommends replacing the 50 percent income loss provision in section 8-208.4(a) with a broad "substantial loss of income" definition and further recommends striking section 8-208.4(d) in its entirety.**

Please issue a report of FAVORABLE WITH AMENDMENT on SB 130. If you have any questions, please contact Zafar Shah, shahz@publicjustice.org, (410) 625-9409 Ext. 237.