



February 17, 2021

House Bill 1312

COVID-19 Eviction and Housing Relief Act of 2021

Judiciary Committee

Environment and Transportation Committee

Position: FAVORABLE

Thank you for the opportunity to provide testimony in support of **House Bill 1312, the COVID-19 Eviction and Housing Relief Act of 2021**. Arundel Community Development Services, Inc. (ACDS) serves as Anne Arundel County’s nonprofit housing and community development agency, helping Anne Arundel County residents and communities thrive through the provision of safe and affordable housing opportunities, programs to prevent and end homelessness, and community development initiatives. In fulfilling this role, ACDS administers grants to nonprofit partners, directly develops and implements programming, and advises the County on housing and community development policy initiatives.

HB 1312 would significantly enhance the ability of Emergency Rental Assistance (ERA) Programs to ensure their limited Emergency Rental Assistance funds are spent with some level of assurance that the expenditure will maintain tenants’ housing stability for the foreseeable future.

While the CDC and State moratoria on evictions provide some protection from eviction for Failure to Pay Rent, **eviction moratoria provide absolutely no protection from eviction for tenants who are at the end of their lease term or who are on month-to-month tenancies.** This is referred to by many as the “**Tenant Holding Over loophole**” to the current moratoria. **Even if a tenant is a model tenant with rent paid in full, if the tenant is at the end of or outside their lease term, the landlord need only give notice (usually 30 days), and then the landlord may file a Tenant Holding Over action to evict – no reason for the eviction is necessary.** Because of the Tenant Holding Over loophole, under current law, *the landlord will win that case.*

When the COVID-19 crisis began, **ACDS stood up the State’s first Emergency Rental Program, getting payments to landlords as quickly as possible and keeping low-income families¹ affected by the COVID-19 crisis in their homes.** Like other agencies with ERA Programs throughout the State, ACDS must ensure responsible use of ERA funds, including

¹ Financial eligibility for ERA Programs is typically set at or below 80% Adjusted Median Income at the time of application.

making every effort to ensure ERA funds are spent for their intended purpose: maintaining housing stability and preventing evictions and homelessness in the midst of a pandemic. As we reach the one-year mark of the COVID-19 crisis, many applicants for ERA are either at or nearing the end of their lease terms. What that means is **an ERA payment for rental arrears – even a substantial one – is no guarantee that a tenant will be able to remain in their housing.**

As ACDS and other organizations close out ERAPs that used CARES Act and other 2020 funding sources and develop new ERAPs for use of the ERA, programs are struggling with how to ensure tenants who are outside their lease terms will have, at minimum, a brief period of time in which they are assured they will not be evicted as Tenants Holding Over. To address this concern, **ACDS notified landlords that if they accept payment for arrears, then they will be required to agree not to file a Tenant Holding Over action against the tenant for at least three months – just three months.** Before our new ERA Program even began accepting applications, we received **significant landlord push back** on this modest requirement, and we have already heard from one landlord that they will **refuse to participate.**

Absent an agreement from a landlord that they will not begin THO proceedings for a specified period after the ERA Program has paid a tenant's arrears, **the landlord may accept payment for arrears and then immediately thereafter notify the tenant that their lease will be terminated in 30 days.** This gives no assurance to the ERAP that ERA funds are being used responsibly, since **a potentially large expenditure could end up resulting in a very short time of housing stability for the tenant.** While the ACDS ERAP can potentially provide relocation assistance for tenants whose landlords are unwilling to agree not to evict for THO as soon as the landlord receives an ERA payment, relocation funds are even more limited than rental assistance funds, and again, the goal of the program is to keep people in place. **HB 1312 would eliminate this dilemma.**

With the influx of more than \$400,000,000 in new federal rental assistance funds coming to the State of Maryland early this year, ERAPs in jurisdictions throughout the State will play a larger role than ever in preventing evictions of the State's lower-income households by providing ERA payments to the State's landlords. **By preventing the filing of THO actions without cause during the pendency of the COVID emergency and for a period after, as this bill does, ERA payments for past due rent will be much more effective to ensure housing security for the individuals and families being assisted.**

For the reasons noted above, we urge a **FAVORABLE** report on HB 1312.

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