



HOMELESS PERSONS REPRESENTATION PROJECT, INC.

HB0392 - Landlord and Tenant – Failure to Repair Serious and Dangerous Defects - Tenant Remedies (Tenant Justice Act)

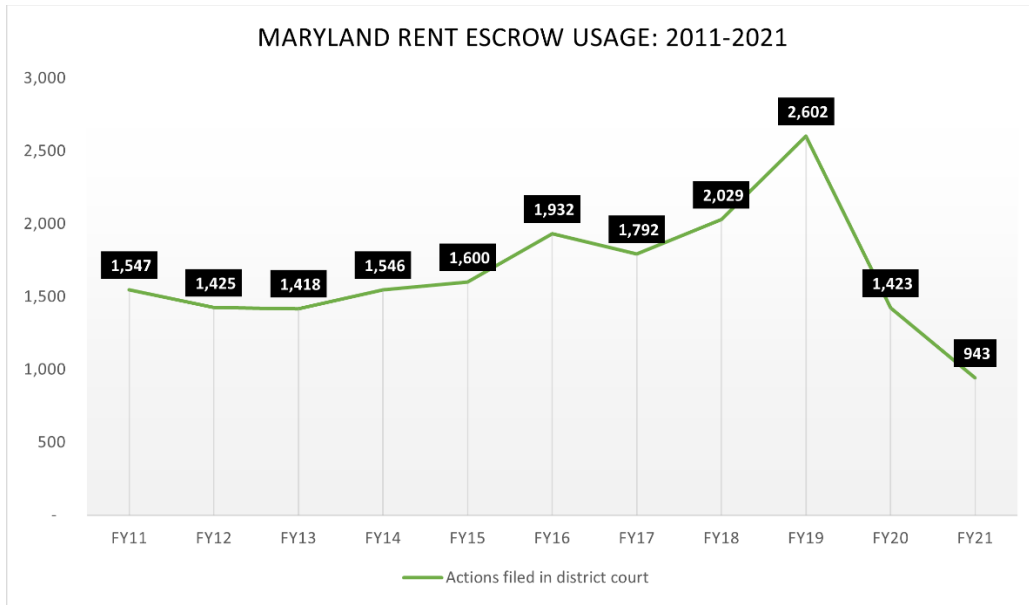
**Hearing before the House Environment and Transportation Committee,
Feb. 8, 2022, 1:00PM**

Position: SUPPORT (FAV)

The Homeless Persons Representation Project, Inc. (HPRP) is a non-profit civil legal aid organization that provides free legal representation to people who are homeless or at risk of homelessness on legal issues that will lead to an end to homelessness. HPRP regularly represents tenants in failure to pay rent cases and other landlord-tenant matters in Baltimore City.

We support House Bill 0392, the Tenant Justice Act, because it would support tenant organizing for better and safer housing conditions.

As it stands, there are many more tenants suffering with uninhabitable living conditions than file for rent escrow. For many, the prospect of bringing an individual lawsuit raises insurmountable fear of retaliation and abuse by unscrupulous landlords. For others, the filing fee and time missed from work are infeasible on a lean budget. For others still, the intimidating prospect of facing off against landlords and judges chills their pursuit of a remedy. These factors help to explain the paltry numbers of rent escrow actions filed by individual renters each year.



Data Source: Maryland Judiciary, <https://mdcourts.gov/district/about#stats>

HB0392 addresses such obstacles by introducing group standing and collective remedies to the rent escrow law (Real Property § 8-211). By allowing tenants to join their interests together, this bill would have an enormous impact on tenants' ability to organize quickly and efficiently to compel landlords to make potentially life-saving repairs. HB0392 would enable a single tenant to file a rent escrow case about building and unit conditions on behalf of multiple tenants or a tenants' association. Moreover, the bill ensures landlord accountability by enabling tenants to seek damages and attorney's fees from negligent landlords who refuse to make necessary repairs to uninhabitable conditions.

HB0392 mirrors an existing reform in New York City, one that routinely supports tenants in building collective power to organize for safe and healthy rentals. Our organization supports the Tenant Justice Act because we believe Maryland renters deserve the same opportunity to build power for better housing.

1. HB0392 supports tenant organizing for repairs to conditions that threaten life, health and safety

HB0392 facilitates tenants in building collective power to demand necessary housing improvements that would benefit all Marylanders, renters and homeowners alike. The bill allows a single tenant or a group of tenants, incorporated or unincorporated, living on the same premises with the same landlord, to seek repairs, damages for unaddressed repairs, and attorney's fees.

In individual habitability actions, tenants face a massive power imbalance when seeking necessary repairs from their landlords. In response to an individual escrow filing, landlords can, and do, refuse to act or refuse to extend a tenant's lease. Landlords can also easily harass individual tenants, file an eviction or unilaterally lock the tenant out,

despite the fact that it is illegal to do so. In providing a collective option for seeking repairs through the courts and the added remedy of damages and attorney's fees, HB0392 reduces the likelihood of intimidation of individual tenants and ensures that those living in truly threatening housing conditions will have a fair shot at compelling negligent landlords to act in the interest of life, health and safety.

2. HB0392 gives tenants more power to compel repairs by ensuring that tenants and courts can hold negligent landlords accountable

As it stands, the only remedies available to tenants that file rent escrow for repairs are rent abatement, distribution of escrow funds or an injunction 90 days after a court finding that the conditions complained of by the tenant exist. These remedies alone, however, have proven unavailing with numerous negligent landlords. There are also limited legal services available to support low-income tenants pursuing rent escrow, which means that tenants often have to file on their own or forgo filing altogether.

HB0392 strengthens the remedies available to tenants and ensures that tenants can hold landlords responsible for negligence and delay in a way that fully accounts for the harm they suffer. First, by providing groups of tenants with the opportunity to file together, tenants will be able to exert significantly more pressure on landlords to make repairs in the first place. Second, by permitting tenants to pursue damages against a landlord and "any other party that has control over the elements affected by the asserted defects or conditions" that fail to make repairs, landlords and their agents will be required to account for the actual harm caused by their refusals to make necessary repairs – a remedy that is much more persuasive than lost rental income alone. Finally, the attorney's fees provision increases the likelihood that tenants will be able to avail themselves of legal services, as they will be able to enlist attorneys whose practices depend upon the ability to recoup reasonable fees.

3. HB0392 allows tenants to address building or complex-wide conditions issues in a single case

HB0392 also has the added benefit of allowing for resolution of tenants' conditions issues with the same landlord and increasing access to justice overall.

Currently, it is difficult for a group of tenants to bring an action against a landlord together. Instead, tenants on the same premises with the same landlord are generally required to file individual actions, with each tenant paying a filing fee, drafting a complaint and appearing in court. This process is particularly onerous for older and disabled renters, for whom it may be difficult travel to the courthouse on multiple occasions, and low-income renters, for whom taking three separate days off of work to go to court could risk their livelihoods. In addition, this process requires judges to hear building or complex-wide conditions issues piecemeal and prevents them from assessing and addressing important safety issues in a single determination.

HB0392 instead provides tenants with better access to justice and judges with the

opportunity to provide justice efficiently.

HPRP is a member of the Renters United Maryland coalition and asks that the Committee **issue a report of FAVORABLE on HB0392**. If you have any questions, please contact: Carisa A. Hatfield, Esq., at 443-402-5395, or chatfield@hprplaw.org.