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HB298

**Landlord and Tenant - Eviction Actions - Filing Surcharge and Prohibited
Lease Provisions
House Judiciary Committee
SUPPORT**

The Maryland Access to Justice Commission (A2JC) is an independent entity supported by the Maryland State Bar Association (MSBA) that unites leaders to drive reforms and innovations to make the civil justice system accessible, fair and equitable for all Marylanders. Prominent leaders from different segments of the legal community in Maryland – including the deans of the two law schools, the attorney general, law firm partners, heads of the legal services providers and funders, corporate counsel, academics, legislators, the state bar and judiciary comprise the A2JC.

During the height of the COVID-19 pandemic, A2JC served as the lead partner in the Maryland Attorney General's COVID-19 Access to Justice Task Force, with its executive director serving as the A2J Task Force's vice chair. One of the recommendations coming out of the Task Force final report [Confronting the COVID-19 Access to Justice Crisis](#) has resulted in HB298 and has the potential to serve two purposes: 1. decrease the number of Failure to Pay Rent court filings; 2. fund the Access to Counsel in Evictions Program, which was passed, but not funded during the 2021 legislative session.

We support HB298 as is, but we would oppose HB298 if the bill is amended to allow the increased surcharge to be passed through to tenants under any circumstances.

HB298 would increase the filing fee surcharge on eviction actions from \$8 to \$73 and prohibit the court and the landlord from passing on this increase to the tenant. Prior to the pandemic, landlords filed 660,000 eviction complaints each year in a State with only 730,000 renter households, the highest eviction filing rate in the nation.

The General Assembly took an important step to address the eviction crisis in 2021 by passing HB18, which provides tenants with access to counsel in eviction cases when the law is funded and which requires landlords to send tenants a 10-day notice prior to filing an eviction action.

A2JC led and was heavily involved in the work of the [Access to Counsel Task Force](#), which was legislatively mandated by HB18. The Task Force studied and made recommendations on how to implement the Access to Counsel in Evictions Program. One of the key challenges the Task Force identified to implement the Program is the exceedingly high number of case filings in Maryland. In addition to putting tenants to a continuous churn of insecurity and stress that traps tenants in a cycle of debt, the

number of case filings also increases the cost to implement HB18, which provides counsel to anyone facing an eviction in Maryland.

Additionally, HB18 remains unfunded. In order for access to counsel to have its intended effect of preventing evictions, it needs funding. A2JC has worked with partners and legislators to push for the use of federal ERAP funding to fund HB18 and add funding HB18 to the state budget. We continue to pursue all available options for funding and support HB298 because it could serve as an additional source of funds.

While we support HB298 as drafted, if the bill is amended to allow landlords or the court to pass on this \$65 increase to the tenant under any circumstances, the purpose of the bill is eviscerated. There would no longer be any disincentive for the landlord to file an eviction action if the landlord or the court can pass that surcharge onto the tenant. We would vocally oppose any surcharge increase in which that surcharge may be passed onto the tenant under any circumstances.

Even an amendment that would allow landlords to pass through the fee to tenants only after the 3rd failure-to-pay-rent filing in a year would still fall disproportionately on the renters who are least able to pay the increased fee because they are often on the brink of eviction.

HB298 aims to reduce evictions by disincentivizing serial filings. Currently, the barriers to entry for an eviction filing are too low and allow for hundreds of thousands of cases to be filed and churned through the courts unnecessarily. Filing fees in Maryland are one of the lowest in the country and could be increased to both reduce evictions and address the funding gap for the Access to Counsel in Eviction Fund.

Based on the information provided above, the Maryland Access to Justice Commission requests the House Judiciary Committee to deliver a FAVORABLE REPORT WITHOUT AMENDMENTS on HB298. Please contact Reena Shah - reena@msba.org - with any questions.