

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Joseph M. Getty
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Environment and Transportation Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 392
Landlord and Tenant – Failure to Repair Serious and Dangerous
Defects – Tenant Remedies (Tenant Justice Act)
DATE: February 2, 2022
(2/8)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 392. The bill authorizes a single tenant to seek remedies under Section 8-211 of the Real Property Article on behalf of a group of tenants or a tenants' organization for a landlord's failure to repair serious and dangerous defects on the premises. The bill authorizes a tenant to bring a civil action for money damages against a landlord or any party that has control over the property including a property management company if a landlord fails to repair certain defects within 90 days. Finally, the bill provides for the award of reasonable attorney's fees to a prevailing tenant.

It is the legislature's prerogative to create new causes of action. However, the bill as drafted authorizes a single tenant to bring an action on behalf of a group of tenants or a tenants' organization. This would permit the joinder of parties or the creation of a class without the traditional safeguards attendant to a class action suit, such as judicial review of the criteria for joinder or class to ensure all parties are properly included. Moreover, some tenants may not wish to have other tenants assert claims on their behalf, or may disagree with the remedy or remedies sought, and it is unclear whether those tenants could bring their own cause of action. If there were multiple causes of action by separate parties for the same underlying condition, it is unclear how the courts would apportion any damages recovered. Finally, rent escrow actions are most typically filed in the District Court, which is a less than ideal setting for class action suits, given the high volume nature of their dockets.

cc. Hon. Vaughn Stewart
Judicial Council
Legislative Committee
Kelley O'Connor