



AOBA Concludes Successful Session – April 2017

After 90 days and 2,800 bills, the Maryland General Assembly ended a successful 2017 legislative session for AOBA members. Much of AOBA's legislative effort was directed to stopping the enactment of harmful legislation. We were again successful in defeating in overwhelming numbers the bills we opposed, such as costly employer, utility and rental housing mandates. A few bills that were enacted of interest to our members were amended to ease problem provisions.

Here is a recap of some of the important issues that AOBA fought for and against, or of interest to you as Maryland property owners, managers and employers. In some cases a more comprehensive summary will follow as bills are reprinted and signed into law. Please give special attention to the bills below that were enacted, as they may require follow-up actions for compliance.

Bills Enacted

- **Owner/Manager Issues** – The following bills were enacted that will impact your responsibilities as owners and managers of commercial and residential rental properties in Maryland:
 - Rent Liability – Military Personnel - [SB 49](#) and [HB 851](#) will expand the circumstances under which rent due under a lease is limited for an active duty military tenant. Under this legislation, if either the individual or their spouse are on active duty with the U. S. military and enter into a lease and are subsequently given a change of assignment, their rent due under the lease may not exceed:
 1. Any rent or lawful charges due plus 30 days rent after written notice and proof of the change of assignment is given to the landlord; and
 2. The cost of repairing damage to the premises caused by an act or omission of the tenant.
- A “change of assignment” is expanded to include:
1. Permanent change of station orders;
 2. Temporary duty orders for a period not exceeding 90 days;

3. Orders requiring a person to move into base quarters; and
4. A release from active duty, including retirement, honorable discharge, or demobilization of a reservist after at least 180 consecutive days of active service

The bill is effective October 1, 2017.

- Notice of Utility Shutoffs - [HB 261](#) will provide owners and managers of multifamily dwellings the opportunity to receive notice prior to gas or electric service being terminated at a dwelling unit. In order to receive the notice, the owner or manager must enroll in the utility's third party notice program by obtaining the tenant's consent. The consent may be provided to the utility by either the customer, or if in writing, the owner or manager of the dwelling unit.

While we had worked hard to obtain a more streamlined means of notice, the legislature ultimately required the tenant's consent prior to enrolling in the notice program due to privacy concerns. In practical terms, rental property owners interested in participating in the notice program would most likely attach a copy of the third party notice form of the gas and electric companies as a lease addendum and submit copies to the utilities. After enrollment, the designated third party would receive a copy of the disconnection notice if utility charges are unpaid. At that point, owners or managers would be aware of a potentially hazardous situation and could remind tenants that they are substantially breaching their lease. The bill is effective October 1, 2017.

- Montgomery County – Business Improvement Districts - [HB 386](#) will establish a law for creating Business Improvement Districts in Montgomery County that varies in several respects from the statewide Business Improvement District (BID) law. Unlike the state law (which has never been used to actually create a BID), this bill would: (1) Lower the threshold of approval for establishing a BID from 80% of the owners of parcels in the proposed district to owners of 51% of the nonexempt assessed value and owners of 51% of the total number of nonexempt parcels in the proposed district; and (2) Subject all owners of non-exempt real property to the BID real property tax, except existing residential condos and coops, HOAs, and residential property with fewer than 4 dwelling units. The bill is effective October 1, 2017.
- State Subsidies for Commercial Tenants - [HB 1464](#) will provide matching grants to businesses that relocate or expand office space in a county that offers a comparable expansion incentive to businesses. To qualify, a business must (1) be a home-based or start-up business occupying its first commercial office space or a business relocating or significantly expanding its operations, (2) execute a lease for at least 3 years for not more than 10,000 square feet of space or obtain an occupancy permit if sharing office space, and (3) apply for a grant within 90 days after signing a lease. Funding for the program would be as provided in the budget. The bill is effective October 1, 2017.

Montgomery County has a similar local program to attract new tenants for commercial office space in the County, providing a subsidy of \$8 per square foot of up to 10,000 feet of space for 3 years. The program is intended to attract businesses and reduce the surplus of vacant office space.

- Prince George's County – School and Public Safety Surcharges - [HB 1636](#) will reduce the Prince George's County school facilities surcharge and public safety surcharge for residential construction within certain distances of a mass transit rail station or Purple Line station. The bill is effective October 1, 2017.
- **Employer Issues** – The following bills will impact you as an employer in Maryland:
 - Sick Leave Employer Mandate - [HB 1](#) will require all employers to offer sick leave benefits to their employees, effective January 1, 2018. Although Governor Hogan has indicated a likely veto of the bill, the House and Senate appear to have the votes to override a veto. This issue may not be completely resolved until the General Assembly acts on the possible veto in January of 2018.

The bill would require employers with 15 or more employees to provide employees with at least 1 hour of sick leave for every 30 hours worked, to a maximum of 40 hours per year. Any existing plan that provides employees paid leave of similar amounts (PTO, vacation, sick) will qualify. Employers with fewer than 15 employees would be required to provide those amounts of unpaid sick leave. Employers are not required to allow more than 64 hours of sick leave to accrue and may prohibit the use of sick leave during the first 106 days of an employee's service. The full amount of leave may be credited to the employee at the beginning of the year, rather than hourly accrual.

The bill applies to all employees who regularly work 12 hours or more in a week. Sick leave may be used for the mental or physical illness of the employee and extended family members, preventative care, maternity or paternity leave, and absences due to domestic or sexual assault or stalking.

The bill preempts local governments from adopting sick leave laws after January 1, 2017, but would not override the existing Montgomery County local law. As the Montgomery County law requires higher levels of benefits, employers doing business in that jurisdiction should ensure that their sick leave plan is at least compliant with that law.

- Personal Information Protection Act Revisions - [HB 974](#) makes a number of revisions to state law governing the actions businesses and employers must take to safeguard the personal information of customers and employees, including implementing reasonable security procedures and practices. The

bill also revises standards for document destruction and actions that must be taken when a security breach of personal information has occurred.

Bills That Failed

The success of AOBA's legislative efforts is largely reflected in the demise of the following legislation:

- **Avoided Employer Mandates**

- Salary History - [SB 404](#) and [HB 398](#) would have required an employer with 15 or more employees to include in a job announcement to recruit an employee or independent contractor: (1) the minimum rate of pay, (2) whether the pay is hourly, salary, commission or other method, (3) whether the position is eligible for overtime, and (4) whether tip credit, meal or lodging allowances will be claimed by the employer. The bills also would have prohibited such employers from seeking or screening a job applicant's salary history without their permission.
- Overtime Pay - [SB 607](#) and [HB 665](#) would have altered the conditions under which an employee works in an administrative, executive or professional capacity and therefore is exempt from overtime pay. These bills would have codified definitions for those positions in state law based on the 40th percentile of full-time salaried workers in the lowest-wage census region and \$913 per week (\$49,302 annually). The standard for the positions would have been adjusted up every 3 years.
- Minimum Wage Increase - [SB 962](#) and [HB 1416](#) would have increased the state minimum wage rate to \$15.00 per hour by 2022 and indexed the rate to the CPI after that date.
- Pay Stub Transparency - [HB 1143](#) would have greatly expanded the information that an employer must provide to an employee for each pay period, including dates covered by the pay, name of employer and employee, address and telephone number of employer, rate of pay, net earnings, and hours worked for nonexempt employees. Liquidated damages of \$100 for each pay period would have been allowed for violations.

- **Avoided Business Costs**

- Elevator Inspections - AOBA was joined by other property management organizations in opposition to [SB 177](#) and [HB 1226](#), which would have required a state inspector or third party qualified inspector to be physically present to witness annual elevator tests in Maryland. The bills represented a

step backward in elevator safety as they would have exacerbated the shortage of qualified inspectors, increased costs, and caused further delays in inspections.

- Scanning Identification Cards - [SB 470](#) would have prohibited a person from using a machine to scan an identification card or driver's license or retain such information. Violation of the bill would have been an unfair and deceptive trade practice.
- Property Manager Registration - [SB 520](#) would have required persons to be registered as a property manager by the State Real Estate Commission before providing property management services in the State. The State Real Estate Commission would have determined qualifications for registration as a property manager, set fees for registration, and required a surety bond for each property manager of at least \$200,000 if the manager rented 20 properties or more.
- Disclosure of Social Security Numbers - [SB 647](#) would have prohibited a person from requiring a consumer to disclose the consumer's Social Security number to the person as a condition for the purchase or lease of consumer goods or services.
- Noneconomic Damages - [SB 682](#) and [HB 1459](#) would have tripled the maximum award allowed for noneconomic damages involving two or more claimants or injured parties.
- Blood Lead Levels - [SB 1195](#) and [HB 1625](#) would have lowered from 10 to 5 milligrams per deciliter the elevated blood lead level at which an owner of affected property is required to satisfy the modified risk reduction standard. The bill would have exposed rental housing providers to increased lawsuits alleging lead poisoning and increased costs for additional and perhaps unnecessary lead abatement actions.
- WSSC Rate Classes – AOBA successfully led the opposition to [HB 336](#) , which would have authorized the WSSC to vary water and sewer rates based on customer classes. The bill would have been used to increase water and sewer rates for business customers.
- Business Filing Fee Increase – AOBA joined other business groups in successfully opposing [HB 691](#), which would have replaced the \$300 annual filing fee paid by business entities to the State Department of Assessments and Taxation with a sliding scale fee based on the taxable assets of the filing

entity. Annual fees would have ranged from \$150 for business entities with under \$10,000 in taxable assets to \$4,000 for entities with over \$200,000 in taxable assets.

- **Avoided Housing Mandates**

- Medical Oxygen – Restrictions - [SB 175](#) and [HB 600](#) would have prohibited an individual from having lighted tobacco or an open flame in a room, or within 20 feet of a room, of a residential dwelling in which medical oxygen is being used. The owner of a rental dwelling would have been required to prominently post a sign stating that medical oxygen is in use in the dwelling and stating the smoking and flame restrictions.
- Wrongful Detainer - Counterclaims - [SB 377](#) and [HB 1206](#) would have authorized a party to a wrongful detainer suit to file a counterclaim or cross-claim. The bill would have potentially made it more difficult to remove persons occupying a property who had no legal right to be there.
- Senior Apartments – Crimes of Violence - [SB 408](#) would have prohibited an owner of a senior apartment facility that contains four or more units from allowing an individual to rent or reside in a unit on the same floor as a vulnerable adult, if the individual: (1) has been convicted of a crime of violence within the previous five years; and (2) the landlord fails to provide a designated person on duty at all times to assist the vulnerable adult.
- Wood Multifamily Construction - Legislation that would have made it practically impossible to construct multifamily housing with frame construction was defeated. [SB 722](#) and [HB 1311](#) would have replaced recognized national standards for building construction in the International Building Code with arbitrary, confusing and superabundant standards designed solely to promote construction with concrete. Not surprisingly, the bill was heavily supported by representatives of the concrete industry, who conducted an extensive media campaign to back the bills.
- Source of Income - [HB 172](#) and [SB 782](#) would have added “source of income” to the list of prohibited practices that would be discrimination under the housing policy of the State. The bills sought to mandate that rental housing providers accept federal Section 8 housing vouchers, even if they would otherwise wish not to participate in the voluntary federal program for business reasons.

HB 172 passed the House with amendments that would have exempted certain Zip Codes in Baltimore City, Baltimore County and Prince George's County from the provisions of the bill if they had more than six percent of the housing assistance vouchers for that jurisdiction. Amendments also would have allowed apartment complexes with seven or more rental units an affirmative defense against discrimination complaints if at least 15% of their units were rented to persons who receive housing assistance vouchers. Ultimately the bills died without a vote in the Senate.

- Rent Control – Mobile Homes - [SB 1005](#) would have required the owner of a mobile home park to notify residents of the park at least 90 days prior to a rent increase, and limit the increase to the regional CPI-U of the past 3 years. Increases in rent could only exceed that limit if the park owner had no health or safety violations that exceeded 14 days, and the increase directly related to the cost of operating, maintaining or improving the park.
- Notice of Routine Maintenance - [HB 327](#) would have required a landlord to provide a tenant certain notice at least 24 hours prior to performing nonemergency, routine maintenance in a leased residential dwelling. The notice could be in writing, or if agreed to by the tenant, by email and state the anticipated date and time of the maintenance and a general description of the maintenance to be performed.
- Candidate and Proposition Signs - [HB 594](#) would have prohibited a rental property owner or mobile home park owner from requiring, prohibiting, or restricting the display of candidate or proposition signs by a tenant.
- Definition of “Rent” - [HB 1346](#) would have provided that under a residential lease “rent” (1) Means the fixed periodic sum for use and possession of the leased premises; and (2) Does not include any additional payments due from the tenant to the landlord under the lease.
- Failure to Pay Rent – Procedures - AOBA led the opposition to [HB 1487](#) , which would have made numerous changes to the procedures by which residential rental property owners repossess their property when the tenant fails to pay rent when due. The bill would have potentially caused significant delays to eviction cases by allowing tenants to contest lead registration information, requiring postponements in cases where the sheriff failed to serve summons at least 4 days prior to the trial, and lengthening the initial scheduling of cases.