



AOBA Concludes Successful Session – April 2018

After 90 days and 3,100 bills, the Maryland General Assembly ended a successful 2018 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

- Small Business Tax Credits – Sick Leave - [SB 134](#) will authorize businesses with 14 or fewer employees to claim on a first-come, first-served basis, income tax credits of up to \$500 per employee to offset the cost of providing sick leave under the new state law that became effective February 11. The credits will become available beginning in tax year 2018.
- Metro Funding - [SB 277](#) / [HB 372](#) will require the Governor to include at least \$167 million annually in additional capital funding for the WMATA Metro system, subject to \$154 million being provided from Virginia and \$178 million from the District of Columbia in annual additional capital funding. The bills will also require additional annual funding for the Maryland Transit Administration and require WMATA to study and report on various aspects of its operations. AOBA supported this legislation as an essential step to meet the capital funding needs of the Metro system, which is highly important to AOBA's members' residents and employees.
- Battery Operated Smoke Alarms - [SB 728](#) will prohibit the sale of battery operated smoke alarms in the state after October 1, 2018, unless the alarm is a sealed unit using long-life batteries.
- Elevator Inspections – Testing - [HB 1107](#) will require a third party qualified inspector (TPQI) to be physically present to witness annual and five-year elevator tests performed

by elevator mechanics. For the past 20 years, DLLR has allowed for on-site post-test reviews of safety tests by licensed elevator inspectors. The bill will require TPQIs to physically witness the 5-year private elevator tests starting 10/1/18 and the annual tests of private elevators starting 10/1/20. State inspectors will retain oversight of new construction and upgrades, and pre-final inspections by TPQIs of new construction and upgrades will be eliminated. Testing will be scheduled by either the owner or TPQIs. DLLR will provide a report to the General Assembly by 1/1/20 on the status of how elevator inspections are being conducted under the legislation. AOBA opposed this legislation due to concerns that scheduling the elevator mechanic and elevator inspector to both be present for testing will not improve safety, but will cause delays and extra costs to management, and that elevator repair companies and inspectors will charge for more hours as the testing and inspections take longer.

- Action for Repossession of Nonresidential Property - Service of Process - [SB 1102](#) / [HB 1329](#) will clarify that in an action to repossess nonresidential property, service of process on a tenant: (1) will be directed to the Sheriff; and (2) on plaintiff's request, may be directed to any person authorized under the MD Rules to serve process. AOBA supported this legislation, which will clarify and codify the process currently used by many commercial property landlords of using private process servers to supplement the Sheriff's service in order to obtain personal service on the tenant. This enables the judge to award both possession and a money judgment in the summary ejectment proceeding.
- Prince George's County – Condos and Coops – Master Meters - [HB 218](#) will prohibit the Maryland Public Service Commission and WSSC from approving the use of a master meter for electric, gas, or water and sewer service after June 1, 2018 in Prince George's County in a newly constructed residential condominium or cooperative, or a residential multiple occupancy building converted to condominium or cooperative use. If a residential multiple occupancy building in Prince George's County has a previously approved master meter for utility services, the building may not be converted to condominium or cooperative use until individual meters have been installed in each individual dwelling unit and common areas. The bill also establishes a task force to study the use of master meters in residential multiple occupancy buildings in Prince George's County that are constructed or converted to condominium or cooperative ownership.
- Prince George's County – Affordable Housing Commission - [HB 236](#) will establish a Commission to study affordable housing in Prince George's County. The Commission is to study various issues impacting affordable housing in the County, including economic factors, local government regulations, economic trends, and housing choice vouchers. Rental property owner organizations will have two representatives on the 15-member Commission. The Commission is to report its findings by January 1, 2019.
- Repeal of Master Meter Authority and Study - [HB 1491](#) will repeal a 2010 enactment authorizing the Public Service Commission to allow master metering for heating, ventilation, and air conditioning services in residential multiple occupancy buildings under limited circumstances. The bill also directs the Commission to study the feasibility of transitioning master meters installed and used for gas or electric to energy allocation systems or submeters in apartment buildings, condominiums, and housing cooperatives. The Commission is to report its findings by January 15, 2019.

- Corporate Income Tax – Single Sales Factor Apportionment - [SB 1090](#) and [HB 1794](#) will phase-in use of the single sales factor to apportion income to the state for the corporate income tax, beginning in tax year 2018. This apportionment methodology will lessen income tax liability for corporations with significant amounts of property or payroll in the state.

Bills That Failed

AOBA supported several bills that would have benefitted our members, but the votes were not there for passage:

- Apartments and Commercial Buildings – Service Charges - [SB 397](#) would have increased the amount of service charges that a landlord could impose for sub-metered or RUBS gas and electric bills.
- Definition of Rent - [SB 493](#) and [HB 472](#) would have provided a statutory definition of rent that included specified other charges.
- Safe Neighborhoods - [SB 555](#) and [HB 494](#) would have shortened the notice period required when a tenant breaches the lease with dangerous behavior.
- Purple Line Tax Credits - [SB 624](#) and [HB 978](#) would have authorized tax credits to offset business income losses resulting from Purple Line construction.
- WSSC – Indirect Customer Assistance - [HB 418](#) would have authorized WSSC to provide a program of financial assistance to indirect customers, such as renters, based on their incomes.

AOBA devoted most of its time defending against legislation that would have harmed our members. The success of our legislative efforts is largely reflected in the demise of the following legislation:

- **Avoided Business Costs**

- Debt Collection – Exemptions from Attachment - [SB 22](#) and [HB 673](#) would have substantially increased the amount of wages that are exempt from attachment, making it much harder to collect bad debts from former tenants.
- Noneconomic Damages - [SB 36](#) and [HB 289](#) would have tripled the maximum award allowed for noneconomic damages involving two or more claimants or injured parties.

- Failure to Pay Rent Cases – Lead Compliance - [SB 524](#) and [HB 852](#) would have made several changes to filings and court procedures in failure to pay rent cases. Under the bill, the complaint would have required a statement by the landlord as to whether the property is an “affected property.” Judges would have been allowed to dismiss complaints where the filer failed to state whether the property was an affected property, or provide required information regarding whether the affected property is registered with MDE, and the inspection certificate number. Information regarding the registration or certificate of inspection would have been allowed as an issue of fact in trial. AOBA opposed the legislation due to concerns that it would have caused additional delays in the already lengthy eviction process.
- Blood Lead Levels - [SB 801](#) and [HB 304](#) 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 409](#), 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.
- Criminal Record Screening Practices - [HB 541](#) would have prohibited an employer with 15 or more full-time employees from conducting a criminal records check before a conditional offer of employment has been extended to a job applicant. AOBA opposed the bill as it would have applied a stricter standard for criminal background checks than current laws in Montgomery and Prince George’s Counties.
- Recycling – Mattresses and Box Springs - [HB 850](#) would have required each county to designate an appropriate agency to create a workable plan to: (1) prevent scenic pollution on public and private property from the illegal dumping of mattresses and box springs; (2) encourage and promote businesses that recycle solid waste; and (3) eliminate, as soon as possible, the disposal of mattresses and box springs in landfills and incinerators. AOBA successfully opposed the legislation due to concerns regarding the lack of recycling facilities and the higher costs of recycling mattresses and box springs.
- Carbon Energy Assessment - [HB 939](#) would have imposed a Greenhouse Gas pollution charge on all fossil fuels and other greenhouse gas emitting substances brought into the state for distribution or use in the state, including natural gas,

petroleum, coal, and any fuels derived from those substances. Electricity suppliers would have paid the assessment on behalf of their customers based on the amount of electricity provided from fossil fuel sources. AOBA opposed the bill due to the massive increase in energy costs that would have resulted from the bill.

- Overtime Pay - [HB 974](#) would have raised the threshold under which an employee works in an administrative, executive or professional capacity and therefore is exempt from overtime pay, thereby significantly increasing overtime wage costs for employers.
- Neighborhood Blight - [HB 1219](#) would have authorized the State Department of Housing and Community Development to enforce compliance with state and local building codes and nuisance laws and issue penalties of up to \$50,000 for noncompliance. AOBA successfully argued that it is the function of local governments, not the state, to enforce local building codes and nuisance laws.
- Consumer Contracts – Automatic Renewal - [HB 1372](#) would have prohibited consumer contracts for the sale or lease of consumer goods, realty, or services from including automatic renewal provisions, unless they followed detailed notice requirements. Failure to comply with the requirements would have resulted in fines and other sanctions under the Unfair and Deceptive Trade Practices law. AOBA successfully argued that longstanding similar provisions in the Real Property Article rendered this legislation unnecessary for real estate leases.

- **Avoided Housing Mandates**

- Wrongful Detainer - Counterclaims - [SB 93](#) 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.
- Late Fees for Tenants Receiving Government Benefits - [SB 250](#) and [HB 580](#) would have prohibited a landlord from imposing late fees for unpaid rent, for tenants receiving a government benefit of monetary assistance, until 5 business days after a government benefit was issued to a tenant, if the tenant provided a written notice: (1) that the government benefit was issued to the tenant after the rent was due; and (2) satisfactory evidence of the date the government benefit was issued. AOBA successfully argued that government benefits were regularly paid at various dates throughout the month, and that the bill would have been impossible to administer.

- Residential Leases – Voter Registration - [HB 5](#) would have required that when a tenant takes possession of a residential property that the landlord provide the tenant with a voter registration application and information on voter registration in the local jurisdiction. AOBA and allied rental housing providers convinced the committee that voter registration was a function of government, not rental housing providers.
- Prince George’s County – Rental Housing Task Force - [HB 233](#) would have established a task force to study health and safety standards for rental housing in Prince George’s County, examining such issues as dangerous, substandard, unsanitary conditions, mold growth and insect infestation. The task force was to make recommendations regarding the establishment of minimum safety standards to regulate and encourage the proper maintenance of rental housing. AOBA argued that every issue raised by this bill was already addressed by the International Property Maintenance Code, which has been in force in Prince George’s County since 2001.
- Prince George’s County – Affordable Housing Requirement - [HB 235](#) would have limited certain exemptions and reductions to the Prince George’s County school facilities surcharge to new residential housing in which at least 20% of the construction was for residents whose income did not exceed 80% of the area median income for the County.
- Prince George’s County – Alternative Dispute Resolution - [HB 256](#) would have established a program for alternative dispute resolution of landlord-tenant cases in the District Court for Prince George’s County. AOBA opposed the bill due to concerns that such a program could further slow down an already lengthy eviction process.
- Montgomery County – Just Cause Eviction - [HB 995](#) would have required an owner of rental housing in Montgomery County to renew a tenant’s lease forever on “substantially similar terms” unless they could prove one of 11 “just causes” for non-renewal. AOBA successfully led the opposition to this bill, arguing that the bill was a backdoor effort at rent control, was fundamentally unfair to the property owner, and would make apartment communities less safe for residents. Ultimately, the Montgomery County Delegation chose to send the bill to summer study, and the bill was withdrawn.