



AOBA Concludes Successful Maryland Legislative Session – April 2019

After 90 days and nearly 2,500 bills, the Maryland General Assembly ended a successful 2019 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

- Assessment Notices – Email Delivery - [SB 59](#) will authorize the State Department of Assessments and Taxation to deliver certain real and personal property notices to property owners by email if the owner has provided the Department an email address within the past three years for the delivery of such notices. AOBA was successful in obtaining an amendment to the bill clarifying that the use of email delivery in place of regular mail would only occur if the property owner requested to receive the notice by email.
- Minimum Wage Increase - [SB 280](#) / [HB 166](#) will phase-in an increase to the State minimum wage to \$15 per hour. Employers may pay an hourly rate of 85% of the minimum wage to employees under the age of 18.

For employers with 15 or more employees, the State minimum wage in upcoming years will be: \$11.00 per hour 1/1/20; \$11.75 per hour 1/1/21; \$12.50 per hour 1/1/22; \$13.25 per hour 1/1/23; \$14.00 per hour 1/1/24; and \$15 per hour 1/1/25.

For employers with fewer than 15 employees, the State minimum wage in upcoming years will be: \$11.00 per hour 1/1/20; \$11.60 per hour 1/1/21; \$12.20 per hour 1/1/22; \$12.80 per hour 1/1/23; \$13.40 per hour 1/1/24; \$14.00 per hour 1/1/25; \$14.60 per hour 1/1/26; and \$15.00 per hour 7/1/26.

Note that Prince George's County currently has a local minimum wage of \$11.50 per hour. Montgomery County is also phasing in an increase of their minimum wage in upcoming years, and under their [local law](#) currently has a minimum wage of \$12.25 per hour for employers with more than 50 employees, and \$12.00 per hour for employers with fewer than 50 employees. At least through 2022, and likely longer, the Montgomery County local minimum wage will exceed the State minimum wage for employers of all sizes.

- Recycling – Office Buildings - [SB 370](#) will require, effective October 1, 2021, the owner of each office building with 150,000 square feet or greater of office space to provide recycling receptacles for the further recycling of; (1) paper and cardboard; (2) metal; and (3) plastic materials. On agreement between the office building owner and tenant of the building, a tenant may carry out the recycling required by this bill. A county may require an office building owner or tenant to report on their recycling activities, or enact a more stringent recycling law. Note that Montgomery and Prince George's counties already have more stringent recycling laws in force for commercial buildings.
- Government Shutdowns – Employee Protections - [SB 512](#) is an emergency bill that will prohibit a gas or electric company from terminating service to a federal, state, or local government employee who is involuntarily furloughed without pay for at least 7 days because of a government shutdown until at least 7 days after the furlough has ended. Courts would likewise be directed to stay foreclosure proceedings against an owner-occupied residential property for such furloughed government employees until up to 30 days after the end of the shutdown.

For rental property, a court is directed to stay an eviction proceeding due to failure to pay rent due during the government shutdown if the tenant or occupant presents evidence satisfactory to the court that the occupant:

- Uses the property as their primary residence;
- Is a federal, state, or local government employee in MD; and
- Is involuntarily furloughed without pay because of a government shutdown.

The stay shall be granted for a time the court considers reasonable, but not more than 30 days beyond when the shutdown ends, unless a party to the action shows sufficient cause for a longer extension.

- Criminal Record Screening Practices - [SB 839](#) / [HB 994](#) will prohibit an employer with 15 or more full-time employees from requiring, before the first in-person interview, an applicant to disclose whether the applicant has a criminal record or has had criminal accusations brought against the applicant. An employer may require an applicant to disclose during the first in-person interview with the applicant whether the applicant has a criminal record or has had criminal accusations brought against the applicant. The bill is effective January 1, 2020, but will have little effect in Montgomery or Prince George's counties, as those jurisdictions have more stringent local laws that prohibit an employer from conducting a criminal records check or inquiring into an applicant's criminal background until the conclusion of the first interview.

- WSSC Assistance - [HB 325](#) will authorize WSSC to establish an income-based program of financial assistance to indirect customers of the Commission. Indirect customers are individuals, such as tenants, who receive water and sewer service from the Commission, but are not billed by the Commission for the service. AOBA supported the bill, which will provide financial assistance to many of our residents. The bill is effective July 1, 2019.
- Lead Poisoning - [HB 1233](#) will reduce from 10 to 5mg/dl the standard under state law for what constitutes an elevated blood lead level by tying the level to the federal Centers for Disease Control blood lead reference level. MDE will be required to adopt regulations to conduct environmental investigations of lead-based hazards consistent with HUD standards. AOBA supported this bill, as it provides that as of July 1, 2020, a rental property owner would only be required to conduct a modified risk reduction to abate lead hazards if an MDE environmental investigation concluded that there is a defect at the affected property. This change is important, as elevated blood lead levels in children are increasingly found to be caused by cosmetics, spices, immigration, and other causes not related to the rental property.

Bills That Failed

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

- Definition of Rent - [SB 366](#) and [HB 558](#) would have provided a statutory definition of rent that included specified other charges. The bills were referred to summer study.
- Carbon Monoxide Alarms - [HB 70](#) would have clarified that a rental dwelling unit was required to have a carbon monoxide alarm only if it contained a device that emitted carbon monoxide or had an attached unventilated garage.
- Purple Line Tax Credits - [HB 313](#) would have authorized state income and property tax credits to offset business income losses resulting from Purple Line construction.

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, which we opposed:

- **Avoided Business Costs**
 - Gas & Electric – Alternative Rates - [SB 572](#) / [HB 653](#) would have directed the Maryland Public Service Commission to adopt alternative rate plans filed by gas and electric companies based on projected future expenses. The bills were a dramatic departure from traditional base rate regulation, where revenue need of a

utility is measured based on a historic test year of actual and known expenses. The bill would have tied the hands of the Public Service Commission in considering proposed future gas and electric rate increases.

- Electric Aggregation - [SB 660](#) / [HB 730](#) would have allowed local governments to form community choice aggregators that would have become the default provider of electric supply to all customers, unless they opted out. The bill would also have given the aggregator access to all customer usage data in their territory. The bill would have caused a significant inconvenience to AOBA members and jeopardized the privacy of their electric usage data.
- Carbon Energy Assessment - [SB 702](#) / [HB 1235](#) 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.
- Debt Collection – Attachments - [SB 772](#) / [HB 1256](#) would have substantially increased the amount of wages that are exempt from attachment. AOBA successfully opposed the bill because it would have made it significantly harder to satisfy a money judgment for unpaid rent.
- Noneconomic Damages - [SB 813](#) would have increased the maximum award allowed for non-economic damages involving three or more claimants or beneficiaries in a wrongful death or survival action, potentially adding significant costs for a rental property suffering a catastrophic event.
- Criminal Procedure – Expungement - [SB 833](#) / [HB 977](#) would have expanded the types of offenses that are eligible for expungement to include convictions for any civil offense, misdemeanor, or any felony except a (1) crime of violence; (2) sex offense; (3) hate crime; or (4) animal cruelty. AOBA opposed the bill because it would have limited the usefulness of criminal record checks that are necessary for our members as employers and rental housing providers.
- Employer Screening for Marijuana Use - [SB 863](#) / [HB 794](#) / [HB 1239](#) would each have placed varying restrictions on an employer's ability to screen, test or make inquiries of applicants or employees for marijuana use. AOBA opposed the bills due to our members' need as employers to inquire of and test applicants and employees for such controlled dangerous substances.

- Prince George's County – Special Police - [HB 1364](#) would have banned the use of special police officers to protect the property of a business in Prince George's County. While special police are infrequently used, AOBA opposed the elimination of special police as an option for property owners to enhance public safety when our members found it necessary.
- **Avoided Housing Mandates**
 - Neighborhood Nuisance – Penalties - [SB 692](#) would have authorized a law enforcement officer to issue a citation with significant financial penalties to any property owner or tenant responsible for a premises on which there is an unruly social event that is a neighborhood nuisance.
 - Repairs of Dangerous Defects - [SB 715](#) / [HB 785](#) would have authorized a tenant to make repairs, bring an action against a rental housing provider for costs incurred for alternate rental housing, and obtain other relief, if the landlord did not make repairs within 30 days of serious defects that threatened the life or safety of occupants. AOBA opposed the bill due to concerns regarding imbalance in the bill and the potential safety hazards of tenants making repairs to electrical and plumbing systems.
 - Source of Income - [SB 812](#) / [HB 451](#) 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 choice vouchers, even if they would otherwise wish not to participate in the voluntary program for business reasons.
 - Failure to Pay Rent Cases – Lead Compliance - [SB 831](#) / [HB 1068](#) would have required in a Failure to Pay Rent eviction case that the landlord bring to the trial for an affected property, and produce for the court and tenant: (1) a current certificate of lead-free or limited lead-free housing for the property; or (2) a current risk reduction inspection certificate for the property; and (3) a copy of the rental registration, permit or license. Failure to produce the required documents would have caused the court to dismiss the case. AOBA opposed the legislation due to concerns that it would have caused additional delays and unnecessary burdens in the already lengthy eviction process.
 - Tenant Protections – Medical Cannabis - [SB 862](#) would have prohibited a landlord from denying a lease to or evicting an individual or caretaker who has been certified and provided medical cannabis solely on the basis of the possession of medical cannabis or a related product or the consumption of non-smoked medical

cannabis. AOBA opposed the bill due to concerns that the bill was contrary to federal housing law and would have jeopardized rental housing financing.

- Definition of “Rent” - [SB 941](#) / [HB 473](#) 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. AOBA opposed the bill as it would have made it more difficult to collect amounts due under the lease as additional rent, such as utility charges.
- Telecommunications – Exclusive Access Agreements - [HB 23](#) would have prohibited the owner of a residential rental building that received financial assistance for the construction or rehabilitation of the building from DHCD from entering into or renewing an agreement for exclusive access or exclusive marketing. AOBA opposed the bill, as the FCC already bans exclusive access agreements, and exclusive marketing agreements are often needed to assure competitive telecommunications service.
- Montgomery County – Just Cause Eviction - [HB 628](#) would have required an owner of rental housing in Montgomery County to renew a tenant’s lease forever unless they could prove one of eight “just causes” for non-renewal. AOBA successfully led the opposition to this bill, arguing that the bill would make it much more difficult and lengthy to remove problem tenants and cause apartment communities to be less safe for residents. Although the Montgomery County House Delegation voted 17 to 6 in favor of the bill, the House Environment and Transportation Committee defeated the bill 17 to 2.
- Leased Residential Property Registry - [HB 1054](#) would have required DLLR to establish and maintain an online rental registry of all leased residential property in the State. Every landlord would have been required to submit to the registry within 30 days of executing a residential lease the address, a copy of the lease, and the names of tenants. AOBA opposed the bill due to the burdensome provisions and likely expense of the registry.