



Montgomery  
County Council

**Committee:** PHED  
**Committee Review:** Completed  
**Staff:** Christine Wellons, Legislative Attorney  
**Purpose:** Final action – vote expected  
**Keywords:** #MoCoRentalAC

AGENDA ITEM #7A  
February 25, 2020  
**Action**

**SUBJECT**

Bill 24-19, Landlord-Tenant Relations – Obligations of Landlord – Air Conditioning  
Lead Sponsor: Councilmember Hucker  
Co-Sponsors: Councilmembers Jawando, Albornoz, then-Council President Navarro and Councilmember Riemer

**EXPECTED ATTENDEES**

Director Aseem Nigam, Department of Housing and Community Affairs

**COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION**

- Final vote on Bill 24-19 expected.
- The Planning, Housing, and Economic Development (PHED) Committee recommends enactment of Bill 24-19 with amendments.

**DESCRIPTION/ISSUE**

As amended by the PHED Committee, Bill 24-19 would:

- (1) require a landlord to provide and maintain air conditioning service (at 80 degrees Fahrenheit or less) for habitable spaces in certain rental housing from June 1 through September 30;
- (2) exempt single-family homes and certain historic properties from the requirement;
- (3) allow a tenant to opt out of the requirement in certain circumstances; and
- (4) allow DHCA temporarily to exempt certain buildings from the requirement if the building is pending redevelopment.

**SUMMARY OF KEY DISCUSSION POINTS**

- The issue is whether to enact Bill 24-19 as amended by the PHED Committee.

**This report contains:**

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## MEMORANDUM

February 20, 2020

TO: County Council

FROM: Christine Wellons, Legislative Attorney  
*C. Wellons*

SUBJECT: Bill 24-19, Landlord-Tenant Relations – Obligations of Landlord – Air Conditioning<sup>1</sup>

PURPOSE: Final Action – Roll call vote required

**Planning, Housing, and Economic Development Committee recommendation (3-0): Enact Bill 24-19 with amendments.**

### OVERVIEW

Bill 24-19, Landlord-Tenant Relations – Obligations of Landlord – Air Conditioning, sponsored by Lead Sponsor Councilmember Hucker and Co-Sponsors, Councilmembers Jawando, Alborno, Council President Navarro and Councilmember Riemer, was introduced on July 16, 2019. A public hearing was held on September 10. The Planning, Housing, and Economic Development (PHED) Committee held an initial worksession on the bill on September 23, and a second worksession on October 28. The Committee held a third work session on November 18.

The PHED Committee voted (3-0) to recommend **enactment of the bill with amendments**. The amended bill appears at ©1-4.

Bill 24-19 would require a landlord to provide and maintain air conditioning service for rental housing located in the County during certain months of the year. As amended by the PHED Committee, Bill 24-19 would:

1. require a landlord to provide and maintain air conditioning service (at 80 degrees Fahrenheit or less) for habitable spaces in certain rental housing from June 1 through September 30;
2. exempt single-family homes and certain historic properties from the requirement;
3. allow a tenant to opt out of the requirement in certain circumstances; and
4. allow DHCA temporarily to exempt certain buildings from the requirement if the building is pending redevelopment.

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<sup>1</sup>#MoCoRentalAC

## BACKGROUND

The County Code does not currently require a landlord to supply and maintain air-conditioning in rental housing. Bill 24-19 would amend County Code Chapter 29, Landlord-Tenant Relations, to require a landlord to provide and maintain air conditioning service in a safe and good working condition so that it provides an inside temperature of eighty degrees Fahrenheit (80° F.) or less between May 1 and September 30. (As described below, the PHED Committee has recommended several substantive and technical amendments to the bill).

According to DHCA, approximately 3.9 percent of rental housing in Maryland lacks air conditioning. Several jurisdictions – including Dallas, Texas and Phoenix, Arizona – have air conditioning requirements for rental property. *See* Dallas City Code § 27-11; Phoenix City Code § 39-5. Other jurisdictions require a landlord to provide air conditioning in good working condition, but only if the landlord chooses to provide air conditioning. *See, e.g.,* D.C. Municipal Regulations § 14-510; North Carolina Gen. Stat § 42-42; Ohio Rev. Code Ann. § 5321.04; Virginia Code Ann. § 55.1-1220.

## SUMMARY OF PUBLIC TESTIMONY

At the public hearing on September 10, 2019, five speakers supported the bill, some with amendments. Testimony received at the public hearing is described in detail in the staff report to the PHED Committee dated September 23, 2019. Correspondence received after the public hearing is described in detail in the staff report dated October 28, 2019.

Written testimony appears at ©10-19. DHCA comments received after the worksessions, and a response from GCAAR, appear at ©20-21.

## SUMMARY OF PRIOR WORKSESSIONS

An **initial PHED worksession** was held regarding the bill on September 23, 2019. Participating in the worksession were the bill's Lead Sponsor, Councilmember Hucker; Aseem Nigam, Director of DHCA; Dan McHugh and Chris Anderson, DHCA; Hemal Mustafa, Department of Permitting Services; and Christine Wellons, Council staff. Issues discussed included the required temperature in degrees Fahrenheit; the method DHCA should use to measure temperature; and which rooms should be subject to the air conditioning requirement.

Participants in the **second worksession**, on October 28, 2019, included Aseem Nigam, Director of DHCA; Rosie McCray-Moody, Dan McHugh and Chris Anderson, DHCA; and Christine Wellons, Council staff. At the October 28 worksession, **the Committee voted to make the following recommendations** regarding Bill 24-19:

1. Retain the required temperature of 80 degrees Fahrenheit (3-0 vote);
2. Amend the bill to clarify the method DHCA will use to measure temperature (3-0 vote);

3. Amend the bill to apply to “habitable spaces”<sup>2</sup> (2-1 vote, with Councilmember Friedson opposing);
4. Amend the bill to apply to the time period of June 1 through September 30 (2-1 vote, with Councilmember Jawando opposing);
5. Amend the bill to exempt single-family homes (2-1 vote, with Councilmember Jawando opposing);
6. Amend the bill to exclude farmhouses and historical properties (3-0 vote);
7. Clarify that the air conditioning requirement must not be construed to conflict with fire safety requirements (3-0 vote);
8. Adopt certain clarifying technical amendments (3-0 vote); and
9. Allow the Director of DHCA to temporarily exempt certain properties that are subject to redevelopment (3-0 vote).

Participants in the **third worksession** were Aseem Nigam, Director of DHCA; Dan McHugh and Chris Anderson, DHCA; and Christine Wellons, Council staff. At the third worksession, the Committee voted (2-1, with Councilmember Jawando opposing) in favor of an amendment to permit a tenant to opt out of the air conditioning requirement in certain circumstances. The Committee voted (3-0) for additional clarifying amendments.

Two issues engendered extensive discussion at multiple PHED worksessions: (1) whether to allow a tenant to opt out of the air conditioning requirement under certain circumstances; and (2) whether to exempt single-family homes from the requirement. The Committee voted 2-1 (Councilmember Jawando opposing) to allow a tenant opt out, and 2-1 (Councilmember Jawando opposing) to exempt single-family homes.

**Committee’s Recommendation.** The Committee voted (3-0) to recommend enactment of the bill with amendments.

### **DHCA POSITION**

Subsequent to the PHED Committee’s worksessions and recommendation, DHCA provided a letter to the Council dated January 21, 2020 “to clarify that the Administration supports Bill 24-19 as originally introduced.” Specifically, the “Administration does not support exemption for single-family homes/townhouses...Additionally, the administration does not support an addendum [to the lease] allowing tenants to waive their rights to air conditioning.” (©21)

In response to DHCA’s position, GCAAR submitted a letter dated January 27, 2020 (©22), in which GCAAR stated it would oppose Bill 24-19 if the single-family home exemption were removed from the bill. The Council also received a number of emails from concerned residents stating that tenants should not be permitted to opt out of the air-conditioning requirement, and that the requirement should be effective between May 1 and September 30 (as opposed to between June 1 and September 30, as recommended by the PHED Committee).

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<sup>2</sup> “Habitable space” is defined in the County Code as: “Any space in a dwelling unit or individual living unit except a bathroom, water closet compartment, laundry, pantry, foyer or communicating corridor, closet, recreation room, private workshop or hobby room, storage space, and fallout or emergency shelter.” County Code § 26-1.

**NEXT STEPS**

4. For the Council's **final consideration and vote**, Bill 24-19, as amended, is attached at ©1-

This packet contains:	<u>Circle #</u>
Bill 24-19, Including Amendments Recommended by PHED Committee	1
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Bill No. 24-19  
Concerning: Landlord-Tenant Relations – Obligations of Landlord – Air Conditioning  
Revised: 11/18/2019 Draft No. 5  
Introduced: July 16, 2019  
Expires: January 16, 2021  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Councilmember Hucker  
Co-Sponsors: Councilmembers Jawando and Alborno, Council President Navarro, and  
Councilmember Riemer

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**AN ACT** to:

- (1) require a landlord to provide and maintain air conditioning service for rental housing located in the County during certain months;
- (2) establish standards for air conditioning service provided by a landlord; ~~[[and]]~~
- (3) establish certain exceptions from the air conditioning requirement; and
- ~~[[ (3) ]]~~ (4) generally amend the law governing rental housing in the County.

By amending

Montgomery County Code  
Chapter 26. Housing and Building Maintenance Standards  
Section 26-7

Chapter 29. Landlord-Tenant Relations  
Section 29-30

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<del>[Single boldface brackets]</del>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<del>[[Double boldface brackets]]</del>	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

1           **Sec. 1. [[Section]] Sections 26-7 and 29-30 [[is]] are amended as follows:**

2   **26-7. Light, ventilation and heating, temperature control.**

3           The owner of each dwelling or dwelling unit must assure compliance with  
4           the following standards during human habitation:

5   \*           \*           \*

6   (f)    Temperature control – air conditioning in rental housing.

7           (1)    For purposes of this subsection, rental housing has the  
8           meaning stated in Section 29-1, except that rental housing  
9           does not include:

10           (A)   a single-family home; or

11           (B)   a dwelling unit located on a site listed in the National  
12           Register of Historic Places.

13           (2)    Except as provided in paragraph (3), between June 1 and  
14           September 30:

15           (A)    Each owner of rental housing where cooling is not  
16           under the control of the tenant must maintain a  
17           temperature of no more than 80 degrees Fahrenheit  
18           (80° F.) in each habitable space at a distance of 3 feet  
19           above floor level; and

20           (B)    Each owner of rental housing where the cooling is  
21           under the control of the tenant must provide an air  
22           conditioning system capable of maintaining a  
23           temperature of no more than 80 degrees Fahrenheit  
24           (80° F.) in each habitable space at a distance of 3 feet  
25           above floor level.

26           (3)    A tenant may elect to have no air conditioning service installed and  
27           provided if:

28                    (A) the air conditioning, if installed, would be provided by one  
 29                    or more individual air conditioning units controlled by the  
 30                    tenant; and

31                    (B) an addendum to the lease:  
 32                    (i) specifies any additional amount of rent that would be  
 33                    required if air conditioning were provided;  
 34                    (ii) acknowledges that the tenant has been offered, but  
 35                    has elected not to have air conditioning; and  
 36                    (iii) acknowledges that the tenant has been informed of  
 37                    the tenant’s right to file a complaint with the Director  
 38                    of the Department of Housing and Community  
 39                    Affairs under Section 29-36.

40                    (4) This subsection must not be construed to permit any  
 41                    violation of a fire safety requirement under Section 26-8(a).

42                    \*       \*       \*

43                    **29-30. Obligations of landlords.**

44                    (a) Each landlord must reasonably provide for the maintenance of the health,  
 45                    safety, and welfare of all tenants and all individuals properly on the  
 46                    premises of rental housing. As part of this general obligation, each  
 47                    landlord must:

48                    \*       \*       \*

49                    (6) Supply water and hot water as reasonably required by the tenant  
 50                    and adequate heat as required by Chapter 26. In a dwelling unit  
 51                    located in a common ownership community, the landlord must  
 52                    provide water, hot water and adequate heat to the extent that the  
 53                    landlord is responsible for providing these services. This  
 54                    subsection ~~[[does not]]~~ must not be construed to impair any



55 provision in a lease that obligates a tenant to pay for gas, heating  
 56 oil, electricity, water, or sewer service that the tenant uses.

57 \* \* \*

58 (9) Except when required for reasonable maintenance and repair,  
 59 [[Supply]] supply and maintain air conditioning service either  
 60 through individual air conditioning units or a central air  
 61 conditioning system in a safe and good working condition so that  
 62 it [[provides an inside temperature of eighty degrees Fahrenheit  
 63 (80° F.) or less between May 1 and September 30]] meets the  
 64 requirements of Section 26-7. This [[subsection does not]]  
 65 paragraph must not be construed to impair any provision in a lease  
 66 that obligates a tenant to pay for gas or electricity that the tenant  
 67 uses. The Executive must adopt Method (2) regulations to  
 68 implement the requirements of this paragraph, including  
 69 regulations to define reasonable maintenance and repair.

70 \* \* \*

71 **Sec. 2. Transition.** For 12 months following the effective date of this Act, a  
 72 landlord may request, and the Director may grant, delayed implementation of the  
 73 requirements of this Act for any real property that is the subject of a pending  
 74 application for a necessary approval for development before the Planning Board, Board  
 75 of Appeals, or Office of Zoning and Administrative Hearings. The period of delayed  
 76 implementation for a property may not exceed the sooner of the completion of the  
 77 development or 24 months.

78 **Sec. 3. Impairment of Leases.** This Act must not be construed to invalidate or  
 79 impair a lease in effect on the effective date of the Act.

## LEGISLATIVE REQUEST REPORT

Bill 24-19

### *Landlord-Tenant Relations – Obligations of Landlord – Air Conditioning*

**DESCRIPTION:** Bill 24-19, Landlord-Tenant Relations – Obligations of Landlord – Air Conditioning would amend Section 29-30 of the Code to require a landlord to provide and maintain a certain level of air conditioning service between May 1 and September 1.

**PROBLEM:** The County Code does not currently require a landlord to supply or maintain air conditioning service.

**GOALS AND OBJECTIVES:** To require a landlord to supply and maintain air conditioning service for rental housing located in the County.

**COORDINATION:** Department of Housing and Community Affairs

**FISCAL IMPACT:** OMB

**ECONOMIC IMPACT:** Finance

**EVALUATION:** To be done.

**EXPERIENCE ELSEWHERE:** To be researched.

**SOURCE OF INFORMATION:** Christine M.H. Wellons, Legislative Attorney

**APPLICATION WITHIN MUNICIPALITIES:** N/A

**PENALTIES:** Under Code Section 29-8, a violation of Chapter 29 is a Class A violation.



OFFICE OF MANAGEMENT AND BUDGET

Marc Elrich  
County Executive

Richard S. Madaleno  
Director

MEMORANDUM

August 16, 2019

TO: Nancy Navarro, President, County Council

FROM: Richard S. Madaleno, Director, Office of Management and Budget *RSM*  
Michael Coveyou, Acting Director, Department of Finance *Michael Coveyou*

SUBJECT: FEIS for Bill 24-19, Landlord-Tenant Relations – Obligations of Landlord – Air Conditioning

Please find attached the Fiscal and Economic Impact Statements for the above-referenced legislation.

RSM:cm

cc: Andrew Kleine, Chief Administrative Officer  
Fariba Kassiri, Deputy Chief Administrative Officer  
Debbie Spielberg, Special Assistant to the County Executive  
Dale Tibbitts, Special Assistant to the County Executive  
Lisa Austin, Office of the County Executive  
Barry Hudson, Director, Public Information Office  
David Platt, Department of Finance  
Dennis Hetman, Department of Finance  
Monika Coble, Office of Management and Budget  
Chrissy Mireles, Office of Management and Budget  
Pofen Salem, Office of Management and Budget

Office of the Director

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**Fiscal Impact Statement**

**Bill 24-19, Landlord-Tenant Relations – Obligations of the Landlord – Air Conditioning**

**1. Legislative Summary**

Bill 24-19 would require a landlord to provide and maintain air conditioning service for rental housing located in the County during certain months and establish standards for air conditioning service provided by a landlord.

**2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.**

Bill 24-19 will not impact County expenditures or revenue.

Currently, a landlord is not required to provide air conditioning; however, if a landlord does provide air conditioning, it must be in working condition. Adoption of Bill 24-19 will require Housing Code Inspectors to add one more system to its inspection list and protocol, and it is expected to have minimal impact on DHCA's operations.

**3. Revenue and expenditure estimates covering at least the next 6 fiscal years.**

See Question #2, Bill 24-19 does not impact expenditures or revenue.

**4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.**

Not applicable.

**5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.**

Not applicable.

**6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.**

Not applicable, Bill 24-19 does not authorize future spending.

**7. An estimate of the staff time needed to implement the bill.**

Bill 24-19 does not impact staff time.

**8. An explanation of how the addition of new staff responsibilities would affect other duties.**

Not applicable.

**9. An estimate of costs when an additional appropriation is needed.**

No additional appropriation is needed to implement Bill 24-19.

**10. A description of any variable that could affect revenue and cost estimates.**

See Question #2.

**11. Ranges of revenue or expenditures that are uncertain or difficult to project.**

Not applicable.

**12. If a bill is likely to have no fiscal impact, why that is the case.**

Not applicable.

**13. Other fiscal impacts or comments.**

Not applicable.


**14. The following contributed to and concurred with this analysis:**

Tim Goetzinger, Department of Housing and Community Affairs

Chris Anderson, Department of Housing and Community Affairs

Dan McHugh, Department of Housing and Community Affairs

Pofen Salem, Office of Department Management and Budget

  
Richard S. Madaleno, Jr., Director  
Office of Management and Budget

  
Date

**Economic Impact Statement**  
**Bill 24-19, Landlord-Tenant Relations – Obligations of the Landlord – Air Conditioning**

**Background:**

Bill 24-19 would require a landlord to provide and maintain air conditioning service for rental housing located in the County during certain months and establish standards for air conditioning service provided by a landlord.

**1. The sources of information, assumptions, and methodologies used.**

The source of information in the preparation of the economic impact statement was the Department of Housing and Community Affairs (DHCA). There were no other sources of information, assumptions, or methodologies needed by the Department of Finance (Finance) in the formulation of this economic impact statement.

**2. A description of any variable that could affect the economic impact estimates.**

As noted in the fiscal impact statement, Bill 24-19 will not impact County expenditures or revenue. Currently, a landlord is not required to provide air conditioning; however, if a landlord does provide air conditioning, it must be in working condition. Bill 24-19 would require a landlord to provide air conditioning. Adoption of Bill 24-19 will require Housing Code Inspectors to add one more system to its inspection list and protocol, but this is expected to have minimal impact on operations.

**3. The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.**

The bill is not anticipated to have an impact on employment, spending, savings, investment, incomes, and property values in the County. Both the lessee and the lessor face unique consequences and costs if they fail to uphold the terms of their respective contracts. The legislation's potential impact on the aggregate cost to property owners in providing and maintaining a certain level of air conditioning service between May 1<sup>st</sup> and September 30<sup>th</sup> cannot be accurately quantified given a lack of specificity of data enumerating the variable cost and number of instances of rental units that are not currently receiving the proper supply and maintenance of air conditioning as specified by the Bill over this time frame.

**4. If a Bill is likely to have no economic impact, why is that the case?**

See number 2.

**5. The following contributed to or concurred with this analysis:**

David Platt and Dennis Hetman, Finance.

  
\_\_\_\_\_  
Michael Coveyou, Acting Director  
Department of Finance

  
\_\_\_\_\_  
Date

1

**TESTIMONY ON BEHALF OF COUNTY EXECUTIVE MARC  
ELRICH ON Bill 24-19, LANDLORD-TENANT RELATIONS –  
OBLIGATIONS OF LANDLORD – AIR CONDITIOING**

**September 10, 2019**

Good afternoon Council President and Councilmembers, my name is Aseem Nigam, Director of the Department of Housing and Community Affairs. It is a pleasure to be here on behalf of the County Executive in support Bill 24-19, which amends Chapter 29 – Landlord-Tenant Relations of the Montgomery County Code.

I am addressing you today at the conclusion of one of the hottest summers in local recorded history. This sobering fact makes the public purpose reflected in Bill 24-19 particularly important at this time. The proposed bill expands landlord obligations to protect the health, safety, and welfare of tenants by requiring air conditioning in all rental housing from May 1<sup>st</sup> to September 30<sup>th</sup>. While all of us are impacted directly or indirectly by climate change, the hotter summer temperatures that have become the new normal disproportionately impact the most vulnerable members of our community- the elderly, children, people with health issues, and individuals with limited economic resources.

In the absence of this bill, landlords of rental properties providing air conditioning as an amenity are only responsible for ensuring that the cooling system is operational. Tenants living in properties without air conditioning often endure excessive heat in their rental unit or are forced to seek refuge elsewhere, depriving them of a safe home environment.

In this time of increasing temperatures and oppressively humid summers, the County Executive views this bill as a critical habitability requirement for rental housing amid an uncertain climate future.

DHCA staff has identified two specific amendments that we believe will strengthen certain enforcement aspects of this bill. We are looking forward to discussing these proposed amendments in support of this timely and important legislation.

Thank you.



To the Honorable Montgomery County Council: Re: Bill 24-19

9/10/2019

10

My name is Victoria Price; I am a resident of the Charter House and Board member of the Charter House Residents' Council. I have resided there for almost fourteen years. I have spent eleven years as Corresponding Secretary of the Executive Board, and the past two years as Advisory Board Community Liaison to county, state, and, if necessary, federal government offices and agencies.

I am here today to testify on behalf of Council member Tom Hucker's proposed Bill 24-19, and my personal experiences in this senior-citizen building are directly related to my favoring this legislation. Charter House is a fifteen-story building that was constructed in 1964. The infrastructure, and in particular the heating and cooling systems, experiences frequent breakdowns, sometimes for lengthy periods of time. The consequences of air-conditioning failures are commensurate to a building that has no cooling at all.

I am certain that all of you can recall this terrible, lengthy-heat wave that assaulted us this summer. These unseasonably-elevated temperatures have been especially difficult this year for our seniors. It is also my sad duty to relate to you just how easily excessive heat can debilitate and even kill the elderly. Seniors and other individuals are especially vulnerable when they suffer from medical conditions.

In early June 2009, three of our residents who suffered from heat exhaustion were transported to local hospitals. The air conditioning had not been activated. Our First Vice-President contacted the owner's corporate office; she informed staff that if the cooling system was not turned on by the end of business that day, the residents would camp out in the lobby and on the mezzanine levels and contact the media. The air conditioning was subsequently turned on. In the hot summer of 2011, a neighbor died, and his body decomposed for a week inside of his apartment. The air conditioning in his apartment was not operational prior to his death. Although the resident had an underlying heart condition, paramedics and

medical examiner issued a preliminary cause of death as hyperthermia. He had lived at Charter House for less than two months. In September 2015, during an especially scorching-hot Labor-Day weekend, the air conditioning was not functional. A group of our suffering seniors picketed the front of the building to bring attention to the dangerous-heat conditions inside and were interviewed by local news reporters. Last month, a resident fainted as she sat on the mezzanine level of the Charter House. Three weeks later, our Board First Vice-President also fainted. Both were transported to hospitals and were discharged several days later. The first incident, as many of you may have seen, was broadcast on television news. The air conditioning had failed on most of the second-floor, common area-rooms. These are not the only heat-related incidents in the building's history.

How do we prevent these scenarios from happening again in this county? The County Council's passing of Council member Tom Hucker's bill is the answer. Property owners should not only provide air conditioning to all apartment residents in Montgomery County, but, since they hold the purse strings for the upkeep of their buildings, they should also make sure that this utility is serviceable, repaired within 24 hours, or replaced if defective. We expect our homes not to be harmful to our health, safety, or our lives. Thank you for your time and consideration.

All of the above is true to the best of my knowledge and memory.

*Victoria L. Price*



**TESTIMONY OF THE APARTMENT AND OFFICE BUILDING ASSOCIATION OF  
METROPOLITAN WASHINGTON ON  
BILL 24-19, LANDLORD-TENANT RELATIONS - OBLIGATIONS OF LANDLORD -  
AIR CONDITIONING**

Good afternoon Councilmembers and staff. I am Nicola Whiteman, the Senior Vice President of Government Affairs for the Apartment and Office Building Association of Metropolitan Washington (AOBA). AOBA is a non-profit trade association representing more than 133,000 apartment units and over 23 million square feet of office space in suburban Maryland, the majority of which, including over 60,000 apartment units and 20 million square feet of office space, is in Montgomery County. AOBA members are committed to providing safe and comfortable housing to their residents and this includes heat and air conditioning.

I am pleased to testify in support of Bill 24-19, Landlord-Tenant Relations - Obligations of Landlord - Air Conditioning with amendments. While AOBA supports the spirit of this county bill, a standard, uniform state bill is generally good public policy. For AOBA member companies operating in multiple jurisdictions a patchwork of conflicting laws can make it difficult to do business in the region.

As to the pending bill, we identified several issues (some of which are highlighted in my statement) discussed with the lead sponsor that can be addressed by amendments included with my statement.

**Need to make repairs:** The bill as drafted currently includes a requirement to maintain an air conditioning system in "a safe and good working condition." It's important that we ensure that housing providers have adequate time for repairs when necessary. There are times when equipment fails and the time to make repairs to cooling towers or chillers can take a week not days.

- **AOBA amendment:** Allows for time to repair by adding the phrase "except when required for reasonable maintenance and repair,".

**No uniform systems/building types:** The bill must take into consideration the different types of heating and cooling systems in the County's more than 90,000 rental units. Two-pipe and similar systems need time to convert from heat to cold and cannot be easily switched back and forth to accommodate fluctuations in temperature especially during the month of May which can still have cool mornings and evenings. Housing providers carefully select to the switch date to maximize resident comfort.

- **AOBA amendment:** Like the District of Columbia, AOBA proposes a delayed start date for those systems requiring a transition period to switch from heat to cool air. **“Exception.** The air conditioning system in a building with a two-pipe system, or any other system reasonably requiring more than 15 days to transition from heat to air conditioning, shall be maintained in safe and good working condition so that it is capable of providing, during the period starting no later than June 1 and ending no earlier than September 30 an inside temperature of eighty degrees Fahrenheit (80° F).”

**Compliance dates:** AOBA proposes a May 15-September 30 compliance period for the air conditioning requirement. The minor modification of the May date addresses concerns about cooler days early in the month and, notably, mirrors language in DC and VA laws.

**Requirement to cool dwelling unit to 80° F:** Buildings without a central system are typically older and have electrical constraints. It can thus be challenging to meet this requirement in part due to electrical infrastructure limitations which would require costly upgrades to comply with the language in the bill.

- **Cost/building restrictions:** A 12,000 BTU unit cost is approximately \$389 and will cool about 550sf (not the entire apartment). For 312 units, the cost to the property is about \$120,000. This does not include any labor or materials like support brackets and condensate extensions to get the condensate away from the buildings. It could cost close to \$1M to add dedicated outlets to support the additional load for a property without the available electricity.
- **AOBA amendment:** For those units served by window units, AOBA recommends amending the bill to apply the minimum temperature requirement to those rooms the units are intended to serve. The proposed change addresses concerns about electrical infrastructure limitations and potentially costly upgrades while providing air conditioning in rental units.

AOBA believes additional discussion on the minimum temperature language is needed and we look forward to participating in these discussions.

**Residents who provide their own window units:** Finally, there are properties where residents provide their own window unit subject to certain restrictions. For example, residents must use dedicated outlets. In these circumstances, the housing provider’s obligation to provide and maintain air conditioning in the units will not apply.

Thank you for the opportunity to present AOBA’s testimony and we look forward to working with the sponsors and the rest of the Council on this and other important policy matters.

# AOBA Amendment

## B24-19, Landlord-Tenant Relations - Obligations of Landlord - Air Conditioning

**Bill would amend Sec. 29-30 (obligations of landlords) to add a new subsection (9):**

### **Sec. 29-30. Obligations of landlords.**

(a) Each landlord must reasonably provide for the maintenance of the health, safety, and welfare of all tenants and all individuals properly on the premises of rental housing. As part of this general obligation, each landlord must:

(9) Except when required for reasonable maintenance and repair (a)(i) –Supply and maintain air conditioning service either through individual air conditioning units or a central air conditioning system in a safe and good working condition so that it provides an inside temperature of eighty degrees Fahrenheit (80° F.) or less between May 15 and September 30.(ii) Notwithstanding subsection (i), for dwelling units serviced by individual air conditioning units, the minimum temperature requirement shall apply to the rooms they are intended to serve.

(b) Exception. The air conditioning system in a building with a two-pipe system, or any other system reasonably requiring more than 15 days to transition from heat to air conditioning, shall be maintained in safe and good working condition so that it is capable of providing, during the period starting no later than June 1 and ending no earlier than September 30, an inside temperature of eighty degrees Fahrenheit (80° F.).

(c) This subsection does not impair any provision in a lease that obligates a tenant to pay for gas or electricity that the tenant uses.

(d) A landlord's obligation to provide and maintain air conditioning under subsection (9) shall not apply where the individual air conditioning units are provided by the resident as set forth in the lease.



September 21, 2019

Councilmember Tom Huckler  
100 Maryland Avenue  
Rockville, Maryland 20850

***Concerns re: Bill 24-19, Landlord-Tenant Relations - Obligations of Landlord - Air Conditioning***

Dear Councilmember Huckler,

I am writing to you on behalf of the Greater Capital Area Association of REALTORS® (GCAAR) – the voice of Montgomery County’s more than 11,000 REALTORS®, property managers, title attorneys, and other real estate professionals, as well as thousands of area consumers and residents. The purpose of this letter is to express concerns regarding the impact of Bill 24-19, Landlord-Tenant Relations - Obligations of Landlord - Air Conditioning on single-family homes.

As much of the focus regarding Bill 24-19 has been on multi-family units, GCAAR feels that the impact this legislation may have on single-family homeowners has been overlooked. If a homeowner has different usage practices with their air conditioning – whether for utility cost, environmental considerations, personal comfort, etc. – this would render them unable to rent space in their home or investment property(s).

An air conditioner installation in an older home could present considerable costs to the homeowner. Though a single room window-unit may be more cost effective option for some, many HOAs and CAs prevent such installations and this option can often be cost-prohibitive. For older properties, the installation of a window unit often requires the increasing of the amperage coming into the home – a “heavy-up” – as well as a new electrical panel. If the current window is not compatible with the unit, the owner would need to replace the window. These collective costs, at minimum, would add up to thousands of dollars. This would invariably lead to an increase in rent to cover the property owners’ costs, vaulting some of the most affordable units out into a higher rent tier.

GCAAR believes adding a minimum number of units clause to the legislation would help remedy this issue. If a landlord were required to include a disclosure regarding air conditioning usage for units under the minimum unit cap would help ensure tenants are protected and homeowners are not burdened. An exemption to historic properties and farmhouses, which often structurally don’t have the ability to house an air conditioning unit or system, would also be an important amendment.

It is paramount that a tenant feel safe and comfortable in their place of residence; but we should not overly burden the practices of a homeowner who serves as a landlord at their property if it can be easily avoided without harm to a tenant. GCAAR looks forward to further engagement regarding this legislation. I thank you for your consideration of our Associations’ perspectives. I am more than willing to answer any questions and work with you on this effort.

Sincerely,

Koki Adasi  
GCAAR, President



12200 Tech Road, Suite 250, Silver Spring, Maryland 20904-1983

Phone: 301-622-2400

Fax: 301-622-2800

www.MHPartners.org

September 20, 2019

The Honorable Nancy Navarro  
President, Montgomery County Council  
100 Maryland Avenue Rockville, MD 20850

Dear Council President Navarro:

On behalf of MHP, I would like to commend the Council, and in particular Councilmember Hucker, on introducing Bill 24-19, an a. As climate change becomes more severe and we see rising temperatures and an increase in 90-plus degree days in the region, it is more important than ever that renters have the option to stay cool and safe in their own homes. With that said, I would like to offer the following comments on the proposed legislation.

By way of background, the majority of MHP's properties provide air conditioning via central air or window-units; however, some of our older properties do not. For those properties that don't have central air or existing individual A/C units, we offer residents the option of requesting an in-window air conditioning unit for which we charge a fee during the summer months to cover the cost of increased electricity consumption. As these older properties are rehabilitated or redeveloped, we convert them to central air or individually controlled heating and A/C.

As currently drafted, the bill does not speak to when the regulation would go into effect or how it would be phased in. For MHP, this element is important because we have many properties that are at various stages of planning for redevelopment or rehabilitation. For example, our Forest Glen apartment community does not have central air, but we anticipate breaking ground on a redevelopment of the property within the next two years, which will include central air, among other enhancements. Without an exemption or timeline allowance for these types of projects, there will be a substantial additional cost to the Forest Glen project. Aside from the cost, adding air conditioning to a building that will be torn down or renovated in a year's time would be extraordinarily wasteful. Considering circumstances such as these, one potential option would be to exempt properties that are slated to be redeveloped or rehabilitated in the near future and which have already begun the entitlement process.

A second consideration to acknowledge is the desires of the tenants. Whenever a tenant opts in and requests a window unit at one of our apartment communities, we readily install them. However, in our experience, many



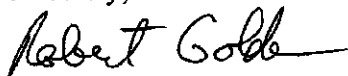
tenants choose to forego renting an air conditioning unit in order to avoid the additional charge to their monthly rent payment. Requiring A/C to be added to all rental units, irrespective of whether a resident wants it or not, could open the door to landlords gouging their tenants with unreasonable fees. In addition to the cost of purchasing window units, installation will mostly necessitate a dedicated electrical line to be run to each of the units in order to power the A/C. And in some cases, it will mean upgrading the building's entire electrical system – which is an expensive undertaking. Landlords could then pass these costs on to the residents in the form of higher rents. An additional \$50 or more a month is a non-trivial amount to many low-income families. While residents with individually metered apartments will be able to control their energy usage and, hence, costs, residents of master-metered communities will likely be charged for anticipated energy usage associated with the A/C unit regardless of whether the resident uses it or not.

Lastly, as a developer that regularly works to ensure compliance with all laws, we worry that inspections of units where the A/C is not being used and the indoor temperature is above 80 degrees could be viewed by inspectors as a code enforcement violation. To avoid this potential misinterpretation, we recommend that the bill clarify that landlords will not be held responsible if a tenant chooses not to avail themselves of the amenity.

MHP believes that all residents deserve safe, healthy, and habitable units for which they can live quality lives. To that end, Bill 24-19 is one more measure we can take to tangibly improve the quality of life for renters in Montgomery County.

Thank you for your consideration of our views. Please feel free to reach out to me with any follow-up at [rgoldman@mhpartners.org](mailto:rgoldman@mhpartners.org) or 301-812-4114.

Sincerely,



Robert A. Goldman, ESQ.  
President



**From:** Brian Dorsey <brian.j.dorsey@gmail.com>  
**Sent:** Friday, October 18, 2019 4:46 PM  
**To:** Navarro's Office, Councilmember <Councilmember.Navarro@montgomerycountymd.gov>  
**Cc:** Lawrence Couch <lobbyist@gsadvocacy.org>  
**Subject:** Bill 24-19, Landlord-Tenant Relations -Obligations of Landlord " Air Conditioning

**[EXTERNAL EMAIL]**

Dear Council President Navarro,

We thank you for your ongoing support for the poor and vulnerable in Montgomery County. The Justice & Advocacy Council of Montgomery County, a voice of the Archdiocese of Washington, supports Bill 24-19, Landlord-Tenant Relations - Obligations of Landlord " Air Conditioning. We support this bill to support all people, including poor and vulnerable people to live in a healthy and safe manner in Montgomery County. We also believe that a landlord should provide and maintain air conditioning service for rental housing located in the County between May 1 and September 30.

The affordable housing crisis is exacerbated by a lack of housing options for low income residents. In 2014, for residents making less than 30% of the Area Median Income (or making approximately \$30,000 a year), there was a housing unit gap of approximately 20,000 units. Additionally, over 55% of rental units were built before 1980. All of this put together means that for many low-income residents are working hard and living in units that are likely at least 40 years old. This may mean many of these units do not have functioning air conditioning. We believe that all housing units should have functioning air conditioning especially low-income young children and older adults who may receive the most perverse health effects from heat during warm weather.

Catholic Social Teaching inform our support of this bill, "the Catholic bishops believe decent, safe, and affordable housing is a human right" .

Thank you for your consideration of our request.

Brian Dorsey, Co-Chair

Larry Couch, Co-Chair

Justice & Advocacy Council of Montgomery County



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Marc Elrich  
County Executive

Aseem K. Nigam  
Director

MEMORANDUM

January 21, 2020

TO: Montgomery County Council

FROM: Aseem K. Nigam, Director *AN*  
Department of Housing and Community Affairs

SUBJECT: Bill 24-19, Landlord-Tenant Relations – Obligations of Landlord – Air Conditioning

I am writing to clarify that the Administration supports Bill 24-19 as originally introduced. Bill 24-19 would require a landlord to provide and maintain air conditioning service for rental housing located in the County during certain months of the year and would establish standards for air conditioning service provided by a landlord.

The Administration does not support exemption for single-family homes/townhouses; however, the requirement could be limited to “habitable” space with window units. Additionally, the administration does not support an addendum allowing tenants to waive their rights to air conditioning. Tenants may feel pressured to do so even though a unit without any air conditioning in the hot summers can be unbearable. However, the administration would support language that would allow an appeal process, to request time extension for buildings that would require extensive electrical work to accommodate the additional electric load from air conditioning. We would like the County to explore the possibility of low-interest loans to help landlords in this type of situation.

I appreciate your consideration of these issues.

AKN:sns

Office of the Director

1401 Rockville Pike, 4th Floor • Rockville, Maryland 20852 • 240-777-0311 • 240-777-3791 FAX  
[www.montgomerycountymd.gov/dhca](http://www.montgomerycountymd.gov/dhca)



January 27, 2020

Council President Sidney Katz  
100 Maryland Avenue  
Rockville, Maryland 20850

Concerns re: Bill 24-19, Landlord-Tenant Relations - Obligations of Landlord - Air Conditioning

Dear Council President Sidney Katz and members of the Montgomery County Council,

I am writing you on behalf of the Greater Capital Area Association of REALTORS® (GCAAR) – the voice of Montgomery County’s more than 12,000 REALTORS®, property managers, title attorneys, and other real estate professionals, as well as thousands of area consumers and residents. The purpose of this letter is to express our deep concerns regarding the County Executive’s January 21 memo regarding Bill 24-19, Landlord-Tenant Relations - Obligations of Landlord - Air Conditioning.

On September 21, 2019 GCAAR submitted its comments regarding Bill 24-19 to the Planning, Housing, & Economic Development (PHED) Committee and bill sponsor Council Vice President Tom Hucker. These comments registered our many issues with the original legislation and offered solutions to the problems as written at the time. Those problems included: extensive costs that would be placed on a property owner to comply, homeowner associations and condominium associations that forbid window units, and the impact these issues would have on affordability. The Committee prudently took our view into consideration during their extensive review of the legislation and made necessary amendments.


GCAAR’s preliminary research has shown that approximately 300-1400 units could be affected, with costs to the property owner approximately \$500 to \$2000 per bedroom. This does not account for the installation of a new electrical panel to accommodate these renovations, which would be much more costly. The County Executive’s suggested changes do not take these issues into account.

The PHED Committee passed Bill 24-19, as amended on October 18, 2019. For three months the legislation sat for comment, with no amendments circulated or requested. GCAAR’s remedies were made part of the record and mentioned multiple times at Committee sessions. GCAAR received no correspondence about possible changes at any time.

This eleventh hour proposal put forth by the County Executive squarely puts the burden on the homeowner, forcing them into a costly and time consuming effort to go through an appeals process. The suggestion that the County explore the possibility of “low-interest loans to help landlords” still places an additional burden on homeowners, as well as offers a long term review for a possible solution that may never materialize. It is difficult to square the rhetoric of a more business friendly county, with a renewed focus on affordable housing, with this legislation stripped of the single family exemption.

If the single-family home exemption is removed, GCAAR requests this bill be tabled until the Council has the fully formed picture of this effort’s impact on housing affordability and the burden it will place on County residents who seek to rent space in their home. If these efforts are not undertaken, GCAAR opposes this legislation in its entirety and requests you vote no on Bill 24-19.

Sincerely,

  
Danai Mattison Sky  
GCAAR, President