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**Testimony of Jamie Long  
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**Before the Committee on Housing  
Council of the District of Columbia**

**Public Hearing Regarding:**

**Bill 26-0126  
“Fair Housing Practices Amendment Act of 2025”**

**May 28, 2025**

Legal Aid DC<sup>1</sup> submits the following testimony in support of Bill 26-0216, the Fair Housing Practices Amendment Act of 2025. Legal Aid supports the proposed bill, including the prohibition on separately billing tenants for common area utility usage, and recommends amendments that would further protect tenants and increase transparency with respect to utility billing by landlords.

Specifically, Legal Aid recommends: (1) clarifying that a landlord must provide tenants all documentation needed to explain and verify the calculation of utility charges, and further that a landlord cannot evict a tenant for nonpayment of utilities without providing that documentation, and (2) clarifying that certain protections and rights currently available in eviction cases based on nonpayment of rent are also available in eviction cases based on nonpayment of utilities.

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<sup>1</sup> Legal Aid DC is the oldest and largest general civil legal services program in the District of Columbia. The largest part of our work is comprised of individual representation in housing, domestic violence/family, public benefits, and consumer law. We also work on immigration law matters and help individuals with the collateral consequences of their involvement with the criminal legal system. From the experiences of our clients, we identify opportunities for court and law reform, public policy advocacy, and systemic litigation. For more information, visit [www.LegalAidDC.org](http://www.LegalAidDC.org).

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## **Require Landlords to Provide Adequate Documentation to Tenants to Verify Utility Charges, Especially Before Evicting a Tenant**

It is becoming increasingly common in multifamily rental housing for the tenant to pay some or all utilities not to the utility provider directly but instead to the landlord in addition to base rent. Oftentimes in these instances, the tenant is not being charged for their actual utility usage. Instead, the landlord uses a formula (often a ratio utility billing system or “RUBS” formula) to apportion utility charges amongst all the tenants in the building.<sup>2</sup> Much like the common area utilities at the heart of the Fair Housing Practices Amendment Act, these formulas are vague, confusing, and mask the actual cost of rent.

The formula used may be disclosed in the lease agreement, but disclosure of the formula alone does not necessarily provide the tenant with sufficient information to meaningfully understand if each separate, variable monthly charge they incur is accurate or fair. For example, for one Legal Aid client sued for eviction based on alleged nonpayment of utilities, four different possible formulas were identified in the lease, different formulas being used depending on the specific utility. Each formula used different combinations of inputs to calculate the tenant’s monthly charges, including (i) the total expense incurred by the building, (ii) the total occupants in the community, (iii) the number of occupants in the tenant’s unit, (iv) the occupied square footage of entire building, (v) the square footage of the tenant’s unit, (vi) and the total number of units. The value of most of these inputs will vary from month to month, and it is not typically possible for a tenant to have access to the underlying bills and data needed to truly know what the inputs are from month to month to determine whether the tenant is being overcharged or fairly charged.

Tenants, including many in Legal Aid’s client community, are feeling increasingly confused and in the dark as to whether the increasing amount and number of utility charges they are being billed for are correct or fair. Tenants often only see the final charge passed onto them by the landlord and not the variable inputs that go into the formula used to calculate the individual charge. They are not given the documentation necessary to see every input and verify that their individual charge was properly calculated. Having no way to verify these charges is challenging and troubling for any tenant. But it is especially bad for Legal Aid’s client community, who are low-income tenants with even less room in their monthly budget to pay unexpectedly high (and potentially incorrectly calculated) utility charges. This proposed bill should be amended to make explicit that landlords must, upon request, disclose to tenants all documentation

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<sup>2</sup> *Attorney General Schwalb Issues Alert to Help Tenants Understand How Utilities Are Billed & Make Sure They Are Not Overpaying*, Office of the Attorney General for the District of Columbia, May 16, 2025, available at <https://oag.dc.gov/release/attorney-general-schwalb-issues-alert-help-tenants>.

needed for the tenant to see each monthly input used to calculate their monthly utility charges so that the tenant can verify that their charge was properly calculated.

In Legal Aid's experience, particularly where a tenant is unrepresented in an eviction case for nonpayment of utilities, landlords bring eviction actions in which the only documentation provided to the tenant or to the Court is the tenant ledger showing the final, calculated utility charge. To ensure that landlords are not circumventing the proposed prohibition on common area billing, and to give tenants the information they need to understand and verify the accuracy of their monthly utility charges, this bill should be amended to clarify that a landlord cannot evict a tenant for nonpayment of utility charges unless the landlord has produced all documentation and evidence necessary to prove that each alleged utility charge was correctly calculated.

### **Clarify That Certain Protections and Rights in Nonpayment of Rent Eviction Cases Also Apply in Nonpayment of Utilities Eviction Cases**

When a landlord sues to evict a tenant for nonpayment of utilities, typically the case is filed as a lease violation case, i.e., a case involving the violation of an obligation of tenancy other than nonpayment of rent. This can result in fewer rights and protections for tenants. First, under current D.C. law, landlords may not initiate an eviction case for nonpayment of rent unless the tenant owes at least \$600 in rent.<sup>3</sup> There is no analogous provision for eviction cases based on nonpayment of utilities or any other non-rent charge. This means, for example, that a tenant could have an eviction case filed against them for owing \$200 in utilities, when the landlord could not file an eviction case where the same tenant owed \$200 in rent. The \$600 threshold to initiate a nonpayment of rent eviction case should similarly apply to eviction cases for nonpayment of utilities or other non-rent charges.

Second, in nonpayment of rent cases, it is undisputed that tenants have the right to pay the rent owed at any time up until the point of the scheduled eviction and stay in their home.<sup>4</sup> Even if a landlord obtains a judgment against a tenant in a nonpayment of rent case, that judgment is "redeemable," meaning that the tenant can redeem their tenancy by paying all the rent owed. In eviction cases based on nonpayment of utilities, a tenant may get completely caught up on everything they owe and still be evicted. The judgment that landlords generally seek in nonpayment of utilities cases is "non-redeemable," meaning that payment in full from the tenant may not prevent the eviction. So, tenants do

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<sup>3</sup> D.C. Code § 16-1501(b) ("A person aggrieved shall not file a complaint seeking restitution of possession pursuant to this section *for nonpayment of rent* in an amount less than \$600.") (emphasis added).

<sup>4</sup> See *Trans-Lux Radio City Corp. v. Service Parking Corp.*, 54 A.2d 144 (D.C. 1947).

not have the same right to stop the eviction by getting caught up on unpaid utilities as they would in a nonpayment of rent case. This bill should explicitly extend this right to nonpayment of utilities eviction cases by clarifying that a judgment in an eviction case for failure to pay utilities or other non-rent charges must be a redeemable judgment.

### **Conclusion**

Legal Aid DC appreciates the opportunity to provide these recommendations on how to make the Fair Housing Practices Amendment Act of 2025 even more beneficial to tenants by ensuring some additional commonsense protections are codified.