

**Testimony of Shirley Horng
Legal Aid Society of the District of Columbia**

**Committee on Housing and Community Development
Council of the District of Columbia**

B21-0173, the “Elderly and Tenants with Disabilities Protection Amendment Act of 2015”

June 29, 2015 at 10:00 A.M.

The Legal Aid Society of the District of Columbia¹ supports the Elderly and Tenants with Disabilities Protection Amendment Act of 2015. This bill improves the existing rent control laws by providing much-needed additional protections to a particularly vulnerable subset of tenants. Our testimony focuses on three aspects of the bill and offers two recommendations.

First, this bill helps elderly tenants and tenants with disabilities stay in their existing rent-controlled homes by reducing the annual rent increase for units occupied by a tenant that is elderly or has a disability to the least of CPI-W, COLA, or five percent. When a tenant’s rent increases more than her income does, then that tenant ends up paying a higher percentage of her income toward rent, forcing her to carry an even greater rent burden than she currently already has. For the elderly and those with disabilities, many of who have fixed incomes, an increase in rent burden can make a previously affordable home become unaffordable.

Under the current rent control laws, a tenant that is elderly or has a disability can face an increase in her rent that is greater than the cost of living adjustment to her fixed income. For example, in 2011, the CPI-W was 2.2 percent, so the housing provider could increase the rent by 2.2 percent for an apartment occupied by an elderly tenant or a tenant with a disability.² However, that year, there was no cost of living adjustment at all to Social Security, Social Security Disability

¹ The Legal Aid Society of the District of Columbia was formed in 1932 to “provide legal aid and counsel to indigent persons in civil law matters and to encourage measures by which the law may better protect and serve their needs.” For more than 80 years, Legal Aid attorneys and volunteers have served tens of thousands of the District’s neediest residents. Legal Aid currently works in the areas of housing, family, public benefits, consumer, and appellate law. More information about Legal Aid can be obtained from our website, www.LegalAidDC.org, and our blog, www.MakingJusticeReal.org.

² 58 D.C. Reg. 8, Notice 723055 (2011) found online at <http://www.dcregs.dc.gov/Gateway/NoticeHome.aspx?NoticeID=723055> and <http://www.dcregs.dc.gov/Notice/Download.aspx?NoticeID=723055>

Income, or Supplemental Security Income.³ As a result, affected tenants were forced to pay a larger percentage of their limited income toward their rent.⁴ Under the new legislation, if the Social Security cost of living adjustment for a given year is less than CPI-W or 5%, then these tenants will be spared this additional burden.

That said, we recommend one minor change to the bill's language with regard to the rent charged when the notice of elderly or disability status is provided within twelve months of the last annual increase, found in Line 137 on Page 6 of the bill. As written, if the effective date of the tenant's elderly or disability status occurs before the next annual rent increase is permitted, then the housing provider must reduce the current rent charged by 2%. However, to be consistent with the other parts of the bill and to avoid confusion, we suggest that the housing provider must reduce the rent charged to the prior legal rent amount plus the least of CPI-W, the Social Security Cost of Living Adjustment, or five percent.⁵

Second, this amendment makes the process of claiming the exemption easier for elderly tenants and tenants who have disabilities in two ways. Under this law, a tenant establishes the exemption upon presenting to her landlord the completed notice form with supporting documentation.⁶ Additionally, the housing provider is responsible for submitting the tenant's completed notice form and supporting documentation to the Rent Administrator.⁷ These are two welcome improvements to the current process, which requires all elderly tenants and tenants with a disability to submit the form to both the housing provider and the Rent Administrator and then await approval by the already over-burdened Rent Administrator.

³ <http://www.socialsecurity.gov/news/cola/automatic-cola.htm>.

⁴ Similarly, in 2012, the housing provider could increase the rent by 3.6 percent for an apartment occupied by an elderly tenant or a tenant with a disability; however, the cost of living adjustment to Social Security, Social Security Disability Income, or their Supplemental Security Income in 2012 was less than half of that, only 1.7 percent.

⁵ That way there are only two types of increases: for tenants who are not registered as elderly or having a disability, it is CPI-W plus 2%; and, for tenants with elderly or disability status, it is the least of the least of CPI-W, the Social Security Cost of Living Adjustment, or five percent. Currently, the bill has a third type of increase: tenants who have elderly or disability status but the increase is CPI-W. Three types of increases may lead to confusion for both housing providers and tenants.

⁶ The bill in its current form refers to the form as an Application; however, the RAD form is actually titled Notice. To avoid confusion, we recommend using the term Notice or Registration Form in the legislation rather than Application. Application indicates that the form must be reviewed and approved to be valid and take effect. Notice or Registration Form is more consistent with the bill as drafted, which presumes validity unless rebutted by clear and convincing evidence by the housing provider.

⁷ Steps should be taken to ensure that the Rent Administrator does indeed prescribe the time and place and manner for housing providers to submit the documents. The current notice form should be modified to include, among other things, instructions to the housing provider on its obligations to provide these documents to the Rent Administrator.

Third and perhaps most importantly, this bill insulates low-income elderly tenants and tenants with disabilities from drastic rent increases resulting from all petitions to raise the rent more than would be permitted under annual increases.⁸ Extending the protections to all housing provider petitions is a welcome and important improvement and further enables particularly vulnerable tenants to stay in their current homes. Annual increases make it harder for seniors and persons with disabilities to continue affording the rent, but hardship petition increases and substantial rehabilitation increases make it impossible. Often, after the hardship petition increase or substantial rehabilitation increase takes effect, the rent is equal to or exceeds the amount of the tenant's fixed income.

The increase in the eligibility limit for the exemption to housing provider petitions from \$40,000 to \$50,000 is commendable. However, it suffers from the same problem that the current law does—it fails to take into account household size. Three elderly siblings with a household income of \$51,000 are no more able to afford a substantial rent increase than a single elderly individual with an income of \$49,000.

Instead, we suggest that the income limit for the exemption be eighty percent of Area Median Income (AMI) for the household, a figure that varies according to household size and also adjusts yearly for inflation. HUD defines “low-income” to be eighty percent of AMI.⁹ Although eighty percent of AMI for an individual is less than \$50,000 in 2015, we believe that ultimately this is a better index for all households in the long term as it accounts for inflation and adjusts based on fluctuations in the economy.

Legal Aid supports this bill and the additional rent control protections that it provides elderly tenants and tenants with disabilities. We urge the Council to enact the Elderly and Tenants with Disabilities Protection Amendment Act of 2015. Thank you for the opportunity to testify.

⁸ Legal Aid has seen housing providers seek to increase the rent 60-100% or more for all the tenants in a building through these petitions.

⁹ 24 CFR 5.603; http://www.huduser.org/portal/datasets/il/il15/FY2015_IL_dc.pdf;
http://www.huduser.org/portal/datasets/il/il2015/2015summary.odn?states=11.0&data=2015&inputname=METRO47900M47900*1100199999%2BDistrict+of+Columbia&stname=District+of+Columbia&statefp=11&year=2015&select_ion_type=county&trueSubmission=yes.