



**Testimony of Shavannie Braham
Staff Attorney
Legal Aid Society of the District of Columbia**

**Before the Committee on Housing & Neighborhood Revitalization
Council of the District of Columbia:**

**B22-0168
“Public Housing Credit Building Pilot Program Amendment Act of 2017”
&
B22-0444
“Public Housing Bill of Rights Amendment Act of 2017”**

January 31, 2018

On behalf of the Legal Aid Society of the District of Columbia,¹ I submit this testimony to recommend ways that the Council can improve Bills 22-0168 and B22-0444, the Public Housing Credit Pilot Program Amendment Act of 2017 and the Public Housing Bill of Rights Amendment Act of 2017.

While these bills are intended to benefit public housing tenants, we are concerned that as drafted they may confuse or harm those very individuals. We urge the Committee to amend both bills to ensure that they are not enacted to the detriment of those they are intended to protect. My testimony today includes a discussion of the many ways Council can improve the proposed bills. As an organization that represents and advocates for the rights of low-income tenants in public housing, we hope that we can work with the Committee to address these issues and ensure that individuals and families are provided the utmost protections through this proposed legislation.

**PROPOSED IMPROVEMENTS TO THE CREDIT BUILDING PILOT PROGRAM
AMENDMENT ACT OF 2017**

Bill 22-0168, the Public Housing Credit Building Pilot Amendment Act of 2017, intends to help tenants who opt into the program to build or grow their credit based on the reporting of timely rent payments to one or more major Credit Bureaus. We greatly appreciate the efforts of several councilmembers, including Chairperson Bonds, Councilmembers Silverman, Todd, Robert White, Gray, and Chairman Mendelson, who co-introduced this bill. For many low-income District residents, bad credit or a lack of credit is a significant obstacle to housing and economic mobility, and a program that allows District residents to build good credit could potentially be very beneficial. However, while the bill’s approach is encouraging, it does not fully contemplate the potential negative and damaging effects on tenants who opt in, nor does it

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.” Over the last 85 years, tens of thousands of the District’s neediest residents have been served by Legal Aid staff and volunteers. Legal Aid currently works in the areas of housing, family law, public benefits, and consumer protection. More information about Legal Aid can be obtained from our website, www.LegalAidDC.org, and our blog, www.MakingJusticeReal.org.

require that the D.C. Housing Authority (DCHA) provide prospective participants with clear information on program details prior to opting in. We recommend that the Committee amend the bill prior to mark-up to address these concerns.

As it considers this bill, we urge the Committee to make sure that tenants who participate in the bill's credit-building pilot do not end up worse off as a result of their participation. In order to do this the Committee should take the following five steps: (1) Define key terms and make sure there are complete disclosures of potential harms; (2) Ensure that DCHA does not report late or missed payments to credit reporting agencies; (3) Allow participants the option of withdrawing from the program; (4) Require DCHA to screen prospective participants; and (5) Incorporate a grievance procedure.

Key Terms Should Be Defined

The bill does not provide a clear definition of its key terms. A definition section is necessary to the clear understanding of both the benefits and harms to opting into the program. Specifically missing from the bill are definitions for "timely rent payments", "opt in" and "consumer credit bureau". These terms should be clearly defined so that public housing tenants may understand that the information compiled from this program will be reported to a third party credit bureau which could have both positive and negative impacts based on their participation.

Further, the bill should provide clear disclosure that opting in may result in harmful outcomes in credit and/or rental history and should outline program standards for ideal participants. These pertinent details should be provided to each prospective participant in written form in advance of program initiation. This time is intended to allow tenants to determine whether participation is in their interests and consider their ability to comply with program requirements. Towards this goal, DCHA should require each interested tenant to engage in financial coaching prior to opting in and throughout the pilot program.

DCHA Should Not Report Late or Missed Rent Payments

The bill states the program is intended to report timely rent payments, but it is unclear whether participants' untimely payments will also be reported. DCHA should be required to provide all tenants with information about the program (including what is and isn't reported and how to withdraw) prior to enrolling. The bill should provide that DCHA will not report late or missed payments. Reporting of untimely payments is against the spirit of the bill and will cause actual harm to tenants. For tenants with no or low credit, reports of missed or late payments may result in lowering their credit score. These tenants would not have been negatively affected in this way but-for the decision to opt in. This is clearly an outcome that is contrary to the intent of the bill. Therefore, the Council should specify that DCHA may only report timely payments to credit agencies.

One way to avoid filing negative reports would be to investigate whether DCHA could make a record of each participant's payments to be reported at the end of the pilot term. DCHA would then file reports solely for tenants who made twelve (12) timely rent payments over the course of the year. This would benefit all participants by avoiding injury to those who were

unable to pay on time. It would also streamline the data collection process in that DCHA would already have compiled a year's worth of data by the end of the pilot term as desired by this bill.

Participants Should Be Able to Withdraw From the Program

The bill in its current form is unclear as to whether participants will be able to withdraw from the program. DCHA should be required to provide all tenants with information about the program (including what is and isn't reported and how to withdraw) prior to enrolling. The ability to withdraw is an important option for tenants and the procedure should be clearly outlined. The practical reasons for implementing a withdrawal procedure are varied. For example, many public housing properties refuse to accept rent from tenants defending against a lease violation case in Landlord and Tenant Court. There may also be cases in which a tenant foresees she will no longer be able to participate in good standing given a change in when she is paid, unexpected medical or other expenses, or an untimely determination of rent amount after she reports a decrease in income. As such, participants need the option to withdraw after opting into the program, and the bill should explicitly provide tenants with this option.

DCHA Should Be Required to Screen Prospective Participants

This legislation should require that DCHA prescreen all tenants interested in this program. At a minimum, DCHA should be required to examine their history of late and missed payments. The program is intended to help tenants build credit through favorable credit reporting. However, if the tenant's rent ledger already shows a history of late and missed payments, such tenants are more likely to have late or missed payments reported while participating in the pilot program and be among the first impacted by negative reports. For those tenants rather than building credit, participation will create a digital file of their inability to maintain steady payments readily accessible to lenders, insurers, and landlords on the private market resulting in unfavorable financial terms and difficulty securing future housing. Through participation in this program, prospective participants who fall in either category (i.e. tenants who either regularly pay late or who have an outstanding balance) will be particularly susceptible to negative credit reporting they would not have otherwise been subject to.

Pilot Program Should Include a Grievance Procedure

If the bill provides for the reporting of late and missed payments, DCHA should give tenants a grace period of 15 days to make timely payment. This period is intended to provide the tenant an opportunity to dispute the proposed report with DCHA. If unresolved, the bill should provide tenants the right to a formal hearing in the Office of Fair Hearings as provided by 14 DCMR 14-6303. The grievance process should be clearly outlined in the notice of intent from DCHA. Absent written notice of the grievance process DCHA should be barred from filing a negative report.

Legal Aid has had direct contact with individuals negatively affected by inaccurate reporting. In one particular case, the client's landlord used an online landlord reporting app to falsely report a negative rental history. That report severely impacted the client's ability to rent on the private market and she was precluded from renting at several properties. Given the

significant ramifications of inaccurate reporting and the tenant-friendly intent of this bill, DCHA should be subjected to a heightened burden to prove a tenant's proposed negative report through the grievance process. In conjunction with this burden, DCHA should be obligated to make accurate reports. In the event a negative report is filed after the tenant has successfully engaged in the grievance procedure, DCHA should be obligated to timely correct the report with all major Credit Bureaus.

Also of concern is the bill's proposed desire to collect data of monthly credit score changes for each participant tenant. Because periodic retrieval of a participant tenant's credit information may itself lower her score, the Council should ensure that the manner in which data is gathered does not potentially harm participants.

PROPOSED IMPROVEMENTS TO THE PUBLIC HOUSING RESIDENT BILL OF RIGHTS AMENDMENT ACT OF 2017

Bill 22-0444, the Public Housing Bill of Rights Amendment Act of 2017, requires DCHA to provide public housing tenants with information pertaining to their rights. We greatly appreciate the efforts of Chairperson Bonds, Councilmembers Silverman, White, and Robert White who co-introduced this bill. We similarly support this bill, as we believe it is important that DCHA fully inform tenants of their rights. However, we recommend the Committee amend the bill to make sure that the rights are written in a way that is easily understandable to those who the bill is intended to protect, and to make the Public Housing Bill of Rights a more complete statement of public housing tenants' rights and protections.

Accordingly, the Committee should make the following changes: (1) Adopt clear language that is readable to the public housing community the bill is intended to protect; (2) Incorporate the D.C. Tenant's Bill of Rights, as applicable; (3) Include additional protections for public housing tenants; (4) Provide DCHA with clear instruction on the enforcement of public housing tenant's rights; and (5); Make clear that Rental Assistance Demonstration and mixed finance properties are subjected to this bill.

District of Columbia Tenant's Bill of Rights Language Should Be Incorporated

The Tenant Bill of Rights Amendment Act of 2014 was made effective December 17, 2014 (D.C. Official Code §§ 42-3531.07(8) & 42-3502.22 (b)(1)) and required the D.C. Office of the Tenant Advocate to publish a "D.C. Tenant Bill of Rights."² Legal Aid believes that the Public Housing Bill of Rights should incorporate the D.C. Tenant Bill of Rights in relevant part—redacting provisions that do not apply to public housing tenants but reproducing in full all rights that do apply. The Public Housing Bill of Rights in its current draft may confuse public housing tenants into incorrectly believing rights included in the D.C. Tenant Bill of Rights are wholly separate and inapplicable to them. Legal Aid believes an incorporated Bill will have a more powerful effect on having public housing tenants understand their rights. If accepted, this proposal would be implemented by an amendment to § 42-3502.22(b)(1)(L) requiring public

² The District of Columbia Tenant Bill of Rights may be found online at: <https://ota.dc.gov/sites/default/files/dc/sites/ota/publication/attachments/2015%2007%2003%20OTA%20DC%20Tenant%20Bill%20of%20Rights%20ODAI-OTA%20FINAL.pdf>

housing residents to receive the Public Housing Bill of Rights whereas other tenants would receive the D.C. Tenant Bill of Rights. In addition, the language in the Public Housing Bill of Rights should be modeled after the D.C. Tenant Bill of Rights.

The Bill Should Include Additional Protections For Public Housing Tenants

In addition to the incorporation of the D.C. Tenant Bill of Rights, the bill should add provisions that include:

1. The right of public housing tenants to request and have their units inspected by the Department of Consumer and Regulatory Affairs.
2. The right to be provided a thirty (30) day notice of rent increases in accordance with 14 DCMR 4205.4(a).
3. The right to correct adverse action taken by DCHA against tenants by submitting grievances to the Office of Fair Hearings at DCHA pursuant to 14 DCMR 14-6303.

Furthermore, the bill should make clear that it is applicable to tenants living in Rental Assistance Demonstration (RAD) funded properties operated by DCHA and to mixed-finance properties. When public housing facilities are run by private entities, often times those entities are unaware that they are operating public housing units, and that tenants in those units have the same rights as all other public housing residents. It is important to clarify this fact both for tenants and management staff.

We urge the Committee to apply the foregoing proposals to the two bills before the Committee today to avoid confusion and harm to the communities these bills were well intended to protect.