



Maryland

Department of the Environment

Larry Hogan
Governor

Boyd Rutherford
Lieutenant Governor

Ben Grumbles
Secretary

February 18, 2020

The Honorable Kumar P. Barve
House Environment and Transportation Committee
House Office Building, Room 251
Annapolis, Maryland 21401

Re: House Bill 491 – Landlord and Tenant - Repossession for Failure to Pay Rent - Lead Risk Reduction Compliance

Dear Chair Barve and Members of the Committee:

The Maryland Department of the Environment (MDE) has reviewed House Bill 491, entitled *Landlord and Tenant - Repossession for Failure to Pay Rent - Lead Risk Reduction Compliance* and we would like to provide information regarding this bill.

The bill would amend the Real Property Article to make changes related to a landlord's demonstration of compliance with the Reduction of Lead Risk in Housing Act (the Act) and local registration and licensing laws when the landlord is seeking to repossess a rental property for failure to pay rent. Existing law requires the complaint in such an action to repossess a pre-1978 residential rental property (affected property) to include a statement that the landlord has registered and renewed the affected property with MDE as required under the Act, and either the number of the inspection certificate for the current tenancy or a statement that denial of access by the tenant precluded the landlord for obtaining an inspection certificate. The inspection certificate itself need not be submitted with the complaint, and the information regarding compliance with the Act provided on the complaint may not be an issue of fact at trial.

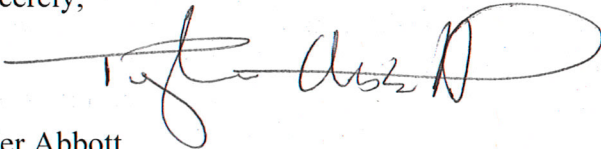
House Bill 491 would add a requirement for a landlord to affirmatively state on the complaint whether the property is an affected property. If local law requires the property to operate under a valid registration or license issued by a State, county or municipal organization, the landlord must affirmatively state on the complaint that the property is registered or licensed, along with the registration or license number. A landlord would be required to provide in the proceeding direct evidence of information regarding compliance with the Act and any State and local registration and license requirements included in the complaint. The bill would repeal a provision prohibiting information regarding compliance with the Act included in the complaint from being an issue of fact at the trial and would require a district court to determine if the landlord met the burden of providing direct evidence before deciding the amount of unpaid rent due. The bill would allow a Baltimore City landlord to repossess property for failure to pay rent if the property complies with Baltimore City's rental license requirement and the Act. The bill would authorize a district court to adjourn the trial for up to 10 days for parties to obtain documents or other proof of claim or defense. The bill would become effective on October 1, 2020.

MDE's Lead Poisoning Prevention Program oversees compliance with the Act. The law requires property owners to register and renew their affected properties annually with MDE and obtain lead paint risk reduction certificates at certain triggering events. Under the proposed legislation, a landlord would be required to provide direct evidence of an affected property's compliance with the Act and a judge decide whether the landlord met the burden of providing the required direct evidence. This may incentivize landlords to comply with the Act. This effect may be further enhanced by similarly amending § 8-402.1 of the Real Property Article, which governs breach of lease proceedings. Otherwise, landlords of properties that are not in compliance with the Act could seek to evict tenants through breach of lease actions rather than failure to pay rent actions. Compliance with the Act is critical to Maryland's success in reducing the incidence of childhood lead poisoning.

To the extent that the bill results in additional Public Information Act (PIA) requests for copies of inspection certificates maintained by MDE, MDE's workload to respond to those requests would increase. MDE is currently working with a vendor to develop the Lead Registration Compliance and Accreditation (LRCA) database, which will improve the storage and linkage of data under the Act. LRCA will lessen the workload for PIA requests for inspection certificate data by improving the ease of reporting and compiling PIA data and/or enabling direct electronic access to inspection certificates, reducing the need to file a PIA request. LRCA is expected to be completed by October 1, 2021. If the bill's effective date were delayed until October 1, 2021, LRCA would mitigate any fiscal impact to MDE under House Bill 491. If the LRCA project is significantly delayed, a fiscal impact may necessitate the hiring of additional administrative staff to respond to PIA requests.

Thank you for your consideration. We will continue to monitor House Bill 491 during the Committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or by e-mail at tyler.abbott@maryland.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tyler Abbott', with a large, stylized flourish at the end.

Tyler Abbott

cc: The Honorable Samuel I. Rosenberg
Ms. Kaley Laleker, Director, Land and Materials Administration