



HOMELESS PERSONS REPRESENTATION PROJECT, INC.

201 North Charles Street, Suite 1104 Baltimore, MD 21201 (Headquarters)

P.O. Box 1787, Rockville, Maryland 20849 (Satellite Office)

Support – HB0174 – Landlord and Tenant – Repossession for Failure to Pay Rent – Registration and License Information

Hearing of the House Environment and Transportation Committee, January 18, 2022

The Homeless Persons Representation Project, Inc. (HPRP) is a non-profit civil legal aid organization that provides free legal representation to people who are homeless or at risk of homelessness on legal issues that will lead to an end to homelessness. HPRP regularly represents tenants in failure to pay rent cases and other landlord-tenant matters in Baltimore City and Montgomery County.

HB 0174 would ensure that District Court rent dockets throughout Maryland provide no safe harbor for landlords who operate in violation of local rental licensing ordinances. Similar legislation that passed in this Committee and crossed over to the Senate as recently as 2021, were focused on specific localities: Baltimore City, Anne Arundel County, and Prince George’s County. HB0174 would cover all jurisdictions. We urge the Committee to issue a Favorable report on this bill.

HB 0174 would effectively bar unlicensed, law-breaking landlords from taking advantage of the court’s specialized, “summary” procedures for eviction. By blocking their use of a go-to debt collection process, this bill eliminates the financial incentive to ignore city or county public-safety mandates. HB 0174 is a much-needed measure to support localities in the enforcement of their rental licensing ordinances.

HB 0174 strengthens the barrier against rogue landlords’ use of ‘Rent Court’

Although the District Court requires self-reporting of rental license compliance on the Failure to Pay Rent form complaint, more is needed to stop unlicensed landlords’ routine use of the courts while they violate the law by leasing units without a valid rental license.

HB 0174 would require all landlords to demonstrate, by preponderance of evidence at the trial of a Failure to Pay Rent action, that the rental unit is licensed if required by local law. To meet that burden, a landlord would need only a physical or electronic copy of the license to show to the judge at trial. By meeting that evidentiary burden, the landlord may proceed with case and may win a judgment for possession. Where the landlord fails to meet this burden of proof, HB0174 leaves it to judges to decide the final disposition of the action.

Importantly, HB 0174 clarifies that it is neither the court nor the tenant who should carry the burden of identifying unlicensed properties or initiating the inquiry as to licensing status. This bill does not require clerks to ministerially rule on licensing compliance – that is the judge’s duty. Additionally, this bill clarifies that temporary or provisional rental licenses would not satisfy the landlord’s burden.

Background on use of specialized court process by unlicensed landlords

The Court of Appeals decision *McDaniel v. Baranowski*, 419 Md. 560 (2011), established that judges may not award any relief in Failure to Pay Rent eviction cases where the landlord has failed to comply with local licensing requirements. Since that decision, the courts’ Failure to Pay Rent form complaint has included fill-in lines that require landlords to declare their rental license compliance. Nonetheless, in the decade since *McDaniel*, the use of “summary” court procedures by unlicensed landlords remains steady. Public Justice Center’s [2015 study *Justice Diverted*](#) revealed that, from an investigation of over 100 contested eviction actions

in Baltimore City, over 70 percent of landlords had either omitted rental licensing information from the complaint or provided the court invalid information. Examining the entire state in [a 2016 report](#), Maryland Legal Aid reported that, in over 21,000 eviction cases resulting in default judgments for repossession, the landlord had failed to provide any rental licensing information on the court complaint despite not having an exemption from licensing.

Since then, the use of “summary” eviction procedures by rogue landlords has continued, as evident in recent appellate cases:

- *Pettiford v. Next Generation Trust Service*, 467 Md. 624 (2020), finding that tenants in unlicensed properties may raise a habitability defense to Failure to Pay Rent actions without the threat of immediate eviction.
- *Aleti v. Metropolitan Baltimore, LLC*, 251 Md.App. 482 (2021), finding that unlicensed landlords cannot charge legal fees to tenants for Failure to Pay Rent actions.
- *Velicky v. Copycat Building LLC*, 474 Md. 201 (2021), holding that unlicensed landlords, though blocked from Failure to Pay actions, may still use the Tenant Holding Over process to evict tenants.

Amid these court opinions, HB 0174 is necessary to make clear that landlords have the burden to show valid rental licensing in Failure to Pay eviction actions. In light of *Velicky*, too, the General Assembly should consider a holistic solution that bars unlawful landlords from any of the three specialized eviction procedures: Failure to Pay Rent, Tenant Holding Over, and Breach of Lease.

The Homeless Persons Representation Project is a member of the Renters United Maryland coalition and asks that the Committee **issue a report of FAVORABLE on HB 0174**. If you have any questions, please contact Karen E. Wabeke at 410-685-6589 ext. 20 or kwabeke@hprplaw.org with any questions.