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Baltimore County

Judicial Proceedings Committee

Joint Committee on Children, Youth,
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TESTIMONY OF SENATOR SHELLY HETTLEMAN SB563 REAL PROPERTY - ACTIONS TO REPOSSESS - JUDGEMENT FOR TENANTS AND PROOF OF RENTAL LICENSURE

SB 563 requires that, in a local jurisdiction that requires residential rental licenses, before a landlord or their agent may use the court system to file for an eviction for Failure to Pay Rent, Breach of Lease (excepting there being a “clear and imminent danger”) or Tenant Holding Over, the landlord must possess a valid license. **The principle and value put forth in this bill is that one should not be able to use the legal system for enforcement if one is not acting legally and is not being complicit with applicable local real estate licensing laws.**

In 2011, in the *McDaniel v. Baranowski* case, the Court of Appeals held that in a Failure to Pay Rent case, the landlord must first be licensed in order to evict a tenant. This past December, however, the Court of Appeals, in *Velicky v. Copycat LLC*, strayed from their logic in *McDaniel* and asserted that a landlord did not have to be licensed to pursue a Tenant Holding Over action against a tenant, thereby making a mockery of our local jurisdictions’ real estate licensing laws. There are valid and important public policy rationales that local jurisdictions require licenses: to ensure that properties are safe and habitable. And the court’s decision in this case will enable bad actors to use this loophole to repossess property, collect rent, and to ignore their obligations under local licensing requirements.

Housing health and safety codes exist to set the floor for those standards. Rental licenses exist to ensure safety and habitability of rental properties. To have a rental license, properties must be registered as rental properties, successfully complete an inspection, comply with lead paint laws, and have no unabated violations. Six counties and 15 municipalities in Maryland require a rental license before the property may be rented. A rental license is the only opportunity a local government has to ensure that rental properties are safe and habitable and to require repairs if they are not.

In her dissenting opinion in the *Velicky* case, Judge Shirley Watts stated, “This loophole presents an obvious risk of danger to tenants, as unlicensed landlords may now use tenant holding over actions ... to recover rent and possession of property and lease the property again, with little incentive to eliminate hazards on the premises and obtain licenses.” SB 563 closes this loophole.

Most landlords comply with local licensing requirements and they have nothing to fear from SB 563. Their business practices will not change under this bill. One of government’s core duties is to protect citizens and this bill will help to ensure that tenants are protected from bad actors who refuse to comply with local licensing laws.