

SB 563_FAV_JUD_ComptrollerBillHenry.pdf

Uploaded by: Bill Henry

Position: FAV



BILL HENRY
OFFICE OF THE COMPTROLLER

City Hall – Room 204
100 Holliday St Baltimore, MD 21202

March 28, 2022

The Honorable Luke Clippinger, Chairman
Judiciary Committee
Maryland House of Delegates
101 House Office Building
Annapolis MD 21401

Dear Chairman Clippinger:

I am writing in support of Senate Bill 563, “Real Property—Actions to Repossess—Judgment for Tenants and Proof of Licensure.” SB 563 is the cross-file of HB 703, which I supported with verbal and written testimony when it was heard by the Judiciary Committee on February 16, 2022. SB 563 would require a landlord who files an action for repossession of residential property in the District Court to demonstrate that the property is licensed as required under applicable local laws or ordinances before the landlord can obtain a judgment for failure to pay rent, tenant holding over, or breach of lease. Baltimore City, which I represent, has such licensing requirements codified in Subtitle 4 of Article 13, Housing and Urban Renewal, of the City Code.

Before my election to the Office of Baltimore City Comptroller, I served for thirteen years on the Baltimore City Council. In 2018 I introduced Council Bill 18-0185, which significantly broadened and strengthened the existing rental licensing laws by extending licensing requirements to non-owner-occupied, one and two-unit rental dwellings. The bill had eleven co-sponsors including our current Mayor, Brandon Scott, and was enacted into law in April 2018 as Ordinance 18-130. I developed this legislation in collaboration with not only the City’s Housing department, but also many of the advocates, including the Public Justice Center, who testified before you on HB 703 and who supported SB 563 at its Senate committee hearing. Council Bill 180-0185 was the most significant update to Baltimore City’s rental licensing law in fifty years, and it effectively applied inspection and safety requirements to all private rental housing.

The aim of our local legislation was to extend licensing, inspection, and safety requirements to what was then one of the least-regulated sectors of the rental property market. A guiding principle underlying this major expansion of rental licensing is that affordable, safe, and well-maintained housing is a human right. As a former community development professional, I was and am well aware of the terrible conditions that some landlords, particularly absentee landlords shielded by anonymous LLCs, allow their properties to deteriorate into. It is essential that all landlords be held to the basic standards of maintenance and safety that the City’s licensing law mandates. Similarly, landlords should be required to have a valid license before pursuing expedited actions of eviction against renters. I can say without hesitation that this was our clear legislative intent—if landlords did not follow the law by inspecting and licensing their properties, they not should not have government’s assistance in taking action against their tenants.

The Hon. Luke Clippinger
Page Two

As a lifelong advocate for fair and affordable housing, I was deeply concerned by the Court of Appeals' ruling in *Velicky v. Copy Cat Building* last December. I realize that the provisions of state law allowing the use of summary eviction proceedings in the District Court have evolved over many years and reflect the wisdom and consensus of the General Assembly, and that *Velicky* only applied to an action under Maryland's "tenant holding over" statute. The Court's holding, however, stretched the current law beyond any reasonable interpretation and created a loophole through which unlicensed landlords can retake their property within a matter of days of filing with the District Court, simply because they are asserting a right of possession and not claiming any money from their tenant.

This ruling is a judicially-crafted slap in the face to local jurisdictions with rental licensing laws, as well as to renters who deserve safe and habitable housing, and to landlords who follow the law and keep their property inspected and registered. To paraphrase Judge Watts' dissent, allowing an unlicensed landlord to repossess property under the tenant holding over statute means there will be little incentive for landlords to obtain licenses and comply with housing code requirements. The precedent *Velicky* creates is even worse. Since the Court of Appeals has fashioned a way around local licensing requirements in one class of expedited eviction actions, it is only a matter of time before unlicensed landlords seeking to evict tenants for failure to pay rent and breach of lease start pushing such cases through the judicial system. That is why SB 563 is vitally necessary. It codifies what should be common sense; if a local jurisdiction has a rental licensing ordinance, a landlord must comply with it before using expedited procedures to evict a tenant.

Simply put, effective and enforceable rental licensing laws are the right thing to do, as a matter of public policy and of simple equity and justice. The change in state law proposed in SB 563 offers a simple solution to restore the balance between landlords' property rights and the duty of local governments to protect our constituents from exploitation.

For all these reasons, I respectfully request the committee to give SB 563 as amended by the Senate a favorable report. If you have any questions, please feel free to contact me at 410-396-4577 or via email at comptroller@baltimorecity.gov.

Sincerely,



Bill Henry
Baltimore City Comptroller
CC: Senator Cory McCray, Chair, Baltimore City Senate Delegation
Ms. Natasha Mehu, Mayor's Office of Government Relations

CDN FAVORABLE SB 563.pdf

Uploaded by: Claudia Wilson Randall

Position: FAV



Testimony SB 563

House Judiciary Committee

March 30, 2022

Position: FAVORABLE

Dear Chairman Clippinger & Members of the House Judiciary Committee:

The Community Development Network of Maryland (CDN) is the voice for Maryland's community development sector and serves nearly 200 member organizations. CDN—focuses on small affordable housing developers, housing counseling agencies and community-based non-profits across the state of Maryland. The mission of CDN is to promote, strengthen and advocate for the community development sector throughout Maryland's urban, suburban and rural communities. CDN envisions a state in which all neighborhoods are thriving and where people of all incomes have abundant opportunities for themselves and their families.

SB 563 was heavily amended to address the concerns of landlords and received a unanimous favorable vote in JPR. This legislation is a straight-forward fix to a ubiquitous problem. It puts the burden of proof on landlords to show a valid rental license to a judge - in any residential eviction case. Most Maryland counties and cities require landlords to pass a property inspection and obtain a rental license in order to lawfully operate rental properties.

Absent that rule, illegally operating landlords easily use the courts' streamlined eviction procedures, making a profit while evading compliance with local housing laws. This undermines local efforts to eradicate unsafe housing. It is not the responsibility of judges or renters -- it's on landlords to show a valid rental license.

The consequences of eviction are both immediate and long term, and they spread into all aspects of individual, family, and community life. Being evicted can lead to a long spiral of financial instability. It can affect a person's ability to get or keep a job, care for family, stay in good health, build or maintain relationships, and secure future housing. Just having an eviction filing on the public record can be a serious obstacle in securing future housing. People are primarily evicted because of poverty. Evictions disparately impact Black communities, especially Black women and families.

We respectfully request a favorable report for SB 563.

Submitted by Claudia Wilson Randall, Associate Director, Community Development Network

SB0563-JUD_MACo_SUP.pdf

Uploaded by: D'Paul Nibber

Position: FAV



MARYLAND
Association of
COUNTIES

Senate Bill 563

Real Property – Actions to Repossess – Judgment for Tenants and Proof of Rental Licensure

MACo Position: **SUPPORT**

To: Judiciary Committee

Date: March 30, 2022

From: D'Paul Nibber

The Maryland Association of Counties (MACo) **SUPPORTS** SB 563. This bill would, among other provisions, require a landlord to comply with a county's licensing scheme for the operation of residential rental properties prior to filing for repossession of a property.

Licensing schemes for rental properties are a means for governments to ensure proper code and zoning compliance for the welfare of their communities, as well as maintain a proper record of housing needs within their jurisdiction. Allowing a complaint for repossession of a property to proceed without compliance with these licensing schemes completely undermines their validity. It would permit landlords to continue the illegal operation of residential rental properties by retaining the necessary tools of eviction and continued collection of rent by threat of eviction.

SB 563 would prevent courts from potentially undermining counties seeking to protect, and reflect the will of, our shared constituents. For this reason, MACo **SUPPORTS** SB 563 and urges a **FAVORABLE** report.

SB0563amend-2022 in House - RUM Testimony Template

Uploaded by: Gwen DuBois

Position: FAV



SB0563 - Real Property – Actions to Repossess – Judgment for Tenants and Proof of Rental Licensure

**Hearing before the House Judiciary Committee,
March 30, 2022**

Position: SUPPORT (FAV)

Chesapeake Physicians for Social Responsibility (CPSR) is statewide evidenced-based, organization of over 900 physicians, other health professionals and supporters, that addresses the existential public health threats: nuclear weapons, the climate crisis and the issues of pollution and toxics' effect on health as seen through the intersectional lens of environmental, social and racial justice. As an organization founded by physicians, we understand that prevention is far superior to treatment in reducing costs; death, illness, injury, and suffering

SB0563 aims to disincentive landlords' non-compliance with local rental license laws. The bill accomplishes this by blocking unlicensed landlords from accessing the district courts' trio of specialized, fast-track procedures for eviction: Failure To Pay Rent (Real Prop. § 8-401), Tenant Holding Over (§ 8-402), and Breach of Lease actions (§ 8-402.1). Under SB0563, if a landlord does not have a valid rental license (where applicable), they cannot use special court procedures for eviction. If they want to use any of those three procedures, they need to comply with local law and obtain the necessary rental license.

Rental licensing is a fixture of local efforts to ensure safe, healthy housing throughout Maryland. By making licenses for rental operations contingent on routine housing inspections, Maryland jurisdictions have a proactive means to ensure that dwelling units meet habitability standards and to protect renters from unsafe housing conditions. Rental license schemes typically supplement local agencies' complaint-based inspection programs.

SB0563 puts the burden of proof on landlords to show a valid rental license to a judge in any action to eviction a residential tenant.

Without a law that expressly places the burden on landlord plaintiffs, illegally operating landlords easily go undetected in the courts' streamlined eviction procedures. When an unlicensed landlord uses the courts' eviction procedures, they profit from licensing non-compliance by using the threat of eviction to collect rent. Equally, they may use the court-approved threat of eviction to silence and to intimidate tenants who withhold rent or raise complaints about substandard conditions. When unlicensed landlords carry through with court-ordered evictions, they remove tenants who spoke up and replace them with new tenants unaware of the unlicensed operation.

This cycle of profit and evasion of local law is unwittingly aided and abetted by judges, clerks, and sheriffs. It hurts renters and undermines local agencies' efforts to eradicate unsafe housing.

SB0563 ends the cycle and cleans up the courts by putting the onus on landlords to show a valid rental license where the local jurisdiction requires one.

SB0563 also clarifies the muddled law around standing to evict.

The 2011 Court of Appeals opinion *McDaniel v. Baranowski* held that unlicensed landlords lack claimant status in Failure To Pay Rent actions and may not use that special, summary procedure. The Court said that landlords must "plead and demonstrate" valid licensing when they file summary ejectment actions, but the decision did not spell out whether landlords must demonstrate the licensing at trial. Consequently, district court forms for Failure to Pay Rent actions require that landlords state a rental license number (where applicable), but there is no burden of proof unless a tenant contests the issue at trial. A 2015 review of eviction actions found that over 70 percent of landlords in one jurisdiction had either omitted licensing information or provided invalid information.

In November 2021, the Court of Appeals made the picture even less clear. In *Velicky v. Copycat Building*, the Court affirmed its prior decision that unlicensed landlords may not use summary ejectment for Failure To Pay Rent – but also found that such landlords may utilize Tenant Holding Over actions to evict their tenants.

In dissent, Judge Watts said, "Allowing Copycat to evict Petitioners in a tenant holding over action under RP § 8-402 without a license essentially renders the licensing

requirement of Baltimore City Code, Art. 13, § 5-4(a) meaningless and defeats its purpose of ensuring that rental properties are fit to live in. As a result of the majority opinion, Copycat and other landlords will have very little incentive to get licenses, which would require bringing rental properties up to code.”

Six counties and more than 15 cities have rental license ordinances.

Rental licensing ordinances are in effect in Anne Arundel, Baltimore, Howard, Montgomery, and Prince George’s Counties and Baltimore City. Cities such as Bowie, College Park, Salisbury, Cumberland, Hagerstown, and Ocean City also have rental licensing laws. SB0563 strengthens compliance with these existing laws. This bill does *not* change the laws themselves, however. If a property owner is exempt from licensure by local law, then they are exempt from the requirements of SB0563.

Chesapeake Physicians for Social Responsibility is a member of the Renters United Maryland, a statewide coalition of renters, organizers, and advocates, and **we urge the Committee’s report of Favorable on SB0563 as the Senate passed it without any further weakening amendments.**

Gwen L. DuBois MD, MPH

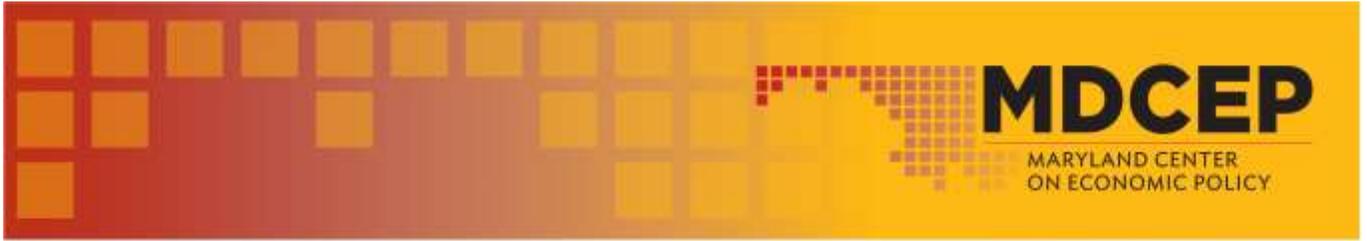
President, Chesapeake Physicians for Social Responsibility

gdubois@jhsph.edu

SB563_MD Center on Economic Policy_FAV.pdf

Uploaded by: Kali Schumitz

Position: FAV



MARCH 30, 2022

Marylanders Should be Protected From Eviction Actions By Unlicensed Landlords

Position Statement Supporting Senate Bill 563

Given before the House Judiciary Committee

Rental licensing is a fixture of local efforts to ensure safe, healthy housing throughout Maryland. By making licenses for rental operations contingent on routine housing inspections, Maryland jurisdictions have a proactive means to protect renters from unsafe housing conditions. Rental licensing typically supplements local agencies' complaint-based inspection programs. **The Maryland Center on Economic Policy supports Senate Bill 563, as it passed the Senate, because it puts the burden of proof on the landlords to show a valid rental license to a judge in any action to evict a tenant.**

SB 563 was amended to:

- Strike a requirement that landlord must show a rental license at time of filing
- Allow unlicensed landlords to proceed to a Tenant Holding Over or Breach of Lease trial if they notify the tenant and then demonstrate at trial that the tenant's act caused the landlord not to have a rental license
- Lower the evidentiary standard from "preponderance" to "satisfaction of the court"
- Allow landlords to submit an electronic record or provisional license in their burden of proof.
- Apply the bill's changes to eviction procedures under Baltimore City public local law

Without a law that expressly requires landlords to prove they are licensed, illegally operating landlords easily go undetected in the courts' streamlined eviction procedures. When an unlicensed landlord uses the courts' eviction procedures, they profit from licensing non-compliance by using the threat of eviction to collect rent. Equally, they may use the court-approved threat of eviction to silence and to intimidate tenants who withhold rent or raise complaints about substandard conditions. When unlicensed landlords carry through with court-ordered evictions, they remove tenants who spoke up and replace them with new tenants unaware of the unlicensed operation.

This cycle of profit and evasion of local law is unwittingly aided and abetted by judges, clerks, and sheriffs. It hurts renters and undermines local agencies' efforts to eradicate unsafe housing. SB 563 ends the cycle and cleans up the courts by putting the onus on landlords to show a valid rental license where the local jurisdiction requires one.

SB 563 clarifies the laws around the standing to evict and gives tenants a legal defense in court and incentivizes landlords to ensure that they remain in compliance. For these reasons, **the Maryland Center on Economic Policy respectfully requests the Judicial Committee to make a favorable report on Senate Bill 563.**

Equity Impact Analysis: Senate Bill 563

Bill Summary

SB 563 aims to disincentive landlords' from not complying with local rental license laws. The bill accomplishes this by blocking unlicensed landlords from accessing the district courts' trio of specialized, fast-track procedures for eviction: failure to pay rent, tenant holding over, and breach of lease actions. Under SB 563, if a landlord does not have a valid rental license (where applicable), they cannot use special court procedures for eviction. If they want to use any of those three procedures, they need to comply with local law and obtain the necessary rental license.

Background

Rental licensing is a fixture of local efforts to ensure safe, healthy housing throughout Maryland. By making licenses for rental operations contingent on routine housing inspections, Maryland jurisdictions have a proactive means to ensure that dwelling units meet habitability standards and to protect renters from unsafe housing conditions. Rental license schemes typically supplement local agencies' complaint-based inspection programs.

Without a law that expressly places the burden on landlord plaintiffs, illegally operating landlords easily go undetected in the courts' streamlined eviction procedures. When an unlicensed landlord uses the courts' eviction procedures, they profit from licensing non-compliance by using the threat of eviction to collect rent. Equally, they may use the court-approved threat of eviction to silence and to intimidate tenants who withhold rent or raise complaints about substandard conditions. When unlicensed landlords carry through with court-ordered evictions, they remove tenants who spoke up and replace them with new tenants unaware of the unlicensed operation. This cycle of profit and evasion of local law is unwittingly aided and abetted by judges, clerks, and sheriffs. It hurts renters and undermines local agencies' efforts to eradicate unsafe housing. SB 563 ends the cycle and cleans up the courts by putting the onus on landlords to show a valid rental license where the local jurisdiction requires one.

Equity Implications

As low-income and Black and Brown Marylanders are more likely to be renters, this comprehensive bill will have greater benefits for those groups, allowing them to have additional tenant protections outside of rent relief during this pandemic and beyond.

Impact

Senate Bill 563 will likely **improve racial, gender, and economic equity** in Maryland.

SB 563_crossover_Consumer Protection Division_fav_

Uploaded by: Kira Wilpone-Welborn

Position: FAV

BRIAN E. FROSH
Attorney General

ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General



WILLIAM D. GRUHN
Chief
Consumer Protection Division

Writer's Fax No.

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

Writer's Direct Dial No.
410-576-6986
kwilponewelborn@oag.state.md.us

March 28, 2022

To: The Honorable Luke Clippinger
Chair, Judiciary Committee

From: Kira Wilpone-Welborn, Assistant Attorney General
Consumer Protection Division

Re: Senate Bill 563 – Real Property – Actions to Repossess – Judgment for Tenants and
Proof of Rental Licensure (SUPPORT)

The Consumer Protection Division of the Office of the Attorney General (the “Division”) supports Senate Bill 563 sponsored by Senator Shelly Hettleman, which ensures that a landlord complies with legal requirements for renting a residential property before the landlord can evict a tenant through a summary ejectment action. Senate Bill 563 provides, however, for an exception to allow a landlord to proceed with a summary ejectment action without complying with licensing requirements if the landlord can demonstrate the tenant caused a licensing authority to revoke, suspend, or refuse to license the rental unit, or when a tenant presents a clear and imminent danger.

Landlord-tenant complaints are consistently among the top complaints received each year by the Division. A 2016 summer study, that included landlords, tenant advocates, Maryland’s courts, government officials, and others, highlighted existing issues arising in rent court actions, including the subject matter of this bill. In several jurisdictions throughout Maryland, a landlord is required to be licensed before renting a property. However, there is no statutory requirement that the landlord provide documentary evidence to the court demonstrating compliance with this requirement before using the courts to evict a tenant. Furthermore, courts have taken a piecemeal approach to the issue. It is well-settled that a landlord that is required to be licensed, may not use the courts to evict a tenant for failure to pay rent if they are not so licensed. *See McDaniel v. Baranowski*, 419 Md. 560 (2011). However, a landlord, that is required to be licensed, may use the courts to evict a holdover tenant, at least if the landlord is not also seeking past due rent payments, without obtaining the license. *See Velicky v. Copycat*, 476 Md. 435 (2021). Senate Bill 563 would codify, and broaden, the *McDaniel* principle and overturn the *Copycat* holding. In overturning *Copycat*, however, Senate Bill 563 recognizes a need, and allows, for the *Copycat* principal in the narrow circumstance where a landlord can demonstrate the tenant was responsible

The Honorable Luke Clippinger
Senate Bill 563
March 28, 2022
Page Two

for the rental license to be revoked, suspended, or denied or when a tenant presents a clear and imminent danger.

Additionally, Senate Bill 563 would ensure that landlords demonstrate their compliance with applicable rental licensing requirements before using the courts to evict a tenant. Although the District Court complaint forms require landlords to certify they maintain applicable rental licenses, the Division has encountered landlords who have allowed their rental licenses to lapse but continue to file eviction actions against their tenants. Placing the burden on tenants to combat an erroneous certification at an expedited hearing without discovery is unfair to unsophisticated, and often unrepresented, tenants. Instead, landlords who are already required to be in possession of documentation and evidence of their licensure are in the best position to prove their compliance with applicable rental licensing requirements. This requirement is no more onerous than the requirement that debt collectors filing actions to collect assigned consumer debt provide certain specific documentation that is solely in their possession to support their claims. *See* Md. Code Ann., Cts. & Jud. Proc. §5-1203 and Maryland Rule 3-306(d). By requiring that a landlord provide evidence to the court of compliance with this licensing requirement, Senate Bill 563 would ensure that a landlord who has not met these prerequisites for renting an apartment cannot use the courts as a tool for collection and eviction. Senate Bill 563 is a reasonable measure that will help ensure that a landlord who wishes to use the courts to evict a tenant was authorized to rent that unit to the tenant in the first place.

The Division requests that the Judiciary Committee give Senate Bill 563 a favorable report.

cc: The Honorable Shelly Hettleman
Members, Judiciary Committee

SB563_MCRC_FAV.pdf

Uploaded by: Michael Donnelly

Position: FAV



Maryland Consumer Rights Coalition

Testimony to the House Judiciary Committee
SB 563: Real Property – Actions to Repossess – Judgment for Tenants and Proof of Rental Licensure
Position: Favorable

March 30, 2022

Delegate Clippinger, Chair
House Judiciary Committee
House Office Building Room 101
Annapolis, Maryland 21401
Cc: Members, House Judiciary Committee

Honorable Chair Clippinger and Members of the Committee:

The Maryland Consumer Rights Coalition (MCRC) is a statewide coalition of individuals and organizations that advances economic rights and financial inclusion for Maryland consumers through research, education, direct service, and advocacy. Our 8,500 supporters include consumer advocates, practitioners, and low-income and working families throughout Maryland.

We are writing today in support of SB 563.

SB 563 aims to disincentive landlords' non-compliance with local rental license laws. The bill accomplishes this by blocking unlicensed landlords from accessing the district courts' trio of specialized, fast-track procedures for eviction: Failure To Pay Rent, Tenant Holding Over, and Breach of Lease actions. With the passage of SB 563, if a landlord does not have a valid rental license (where applicable), they cannot use special court procedures for eviction except in specific circumstances. If they want to use any of those three procedures, they need to comply with local law and obtain the necessary rental license.

Rental licensing is a fixture of local efforts to ensure safe, healthy housing throughout Maryland. By making licenses for rental operations contingent on routine housing inspections, Maryland jurisdictions have a proactive means to ensure that dwelling units meet habitability standards and to protect renters from unsafe housing conditions. Rental license schemes typically supplement local agencies' complaint-based inspection programs.

Maryland has been plagued with a dearth of substandard rental properties, to the detriment of tenants and their families, and all taxpayers. These properties illustrate the deep power imbalance in the relationship between tenants and landlords. In no other relationship would a seller, or in this case, a lessor be allowed to bring a product to market with such low standards of care. However, since landlords



Maryland Consumer Rights Coalition

know they have the upper hand in the relationship, and the licensing law is not consistently enforced, landlords can choose to evict rather than make repairs or respond to their tenant's requests.

SB 563 puts the burden of proof on landlords to show a valid rental license to a judge in any action to evict a residential tenant.

Without a law that expressly places the burden on landlord plaintiffs, illegally operating landlords easily go undetected in the courts' streamlined eviction procedures. When an unlicensed landlord uses the courts' eviction procedures, they profit from licensing non-compliance by using the threat of eviction to collect rent. Equally, they may use the court-approved threat of eviction to silence and to intimidate tenants who withhold rent or raise complaints about substandard conditions. When unlicensed landlords carry through with court-ordered evictions, they remove tenants who spoke up and replace them with new tenants unaware of the unlicensed operation.

This cycle of profit and evasion of local law is unwittingly aided and abetted by judges, clerks, and sheriffs. It hurts renters and undermines local agencies' efforts to eradicate unsafe housing. This bill ends the cycle and cleans up the courts by putting the onus on landlords to show a valid rental license where the local jurisdiction requires one.

For these reasons, MCRC supports SB 563 and asks for a favorable report.

Best,

Isadora Stern
Policy Associate
Maryland Consumer Rights Coalition
2209 Maryland Avenue
Baltimore, MD 21218

Councilwoman Odette Ramos Testimony SB563.pdf

Uploaded by: Odette Ramos

Position: FAV



Odette Ramos

Baltimore City Councilwoman

District 14

(410) 396 - 4814

odette.ramos@baltimorecity.gov

100 N. Holliday Street, Room 506

Baltimore MD 21202

Testimony

SB563 Real Property – Actions to Repossess – Judgement for Tenants and Proof of Rental Licensure

March 30, 2022

FAVORABLE

Chair Clippinger and Members of the House Judiciary Committee:

I am writing to urge your support for **SB563: Real Property – Actions to Repossess – Judgement for Tenants of Rental Licensure**.

SB563 requires landlords to show proof that they are properly licensed to lease the residential property where they are seeking an eviction.

The Baltimore City Council passed an ordinance in our last council establishing a very stringent landlord licensing law. The law requires regular inspections and uploading of documents to ensure that the renter is living in good conditions.

As a requirement of our rental assistance dollars, Baltimore City required landlords to have proper licenses. Recently there was a case where tenants in a building organized to push back on the landlord from improper evictions and cited that the building was not properly licensed. The courts sided with the landlord. SB563 would require that in jurisdictions where there is a rental licensing law, no landlord can evict a tenant without being properly licensed.

This also helps in cases where tenants have been protesting terrible conditions in their buildings. Whereas tenants should be paying their rent into escrow, that may not always happen. This situation can be avoided if the building is properly licensed and following all building codes.

I urge your favorable report for this legislation.

Please do not hesitate to contact me should you have any questions. I can be reached on 410-396-4814 or via email at odette.ramos@baltimorecity.gov.

Respectfully Submitted:

Odette Ramos

Baltimore City Councilwoman, District 14

SB 563- Real Property – Actions to Repossess – Jud

Uploaded by: Robin McKinney

Position: FAV



SB 563 - Real Property – Actions to Repossess – Judgment for Tenants and Proof of Rental Licensure
House Judiciary Committee
March 30, 2022
SUPPORT

Chair Clippinger, Vice-Chair, and members of the committee, thank you for the opportunity to submit testimony in support of Senate Bill 563. This bill aims to disincentive landlords' non-compliance with local rental license laws.

The CASH Campaign of Maryland promotes economic advancement for low-to-moderate income individuals and families in Baltimore and across Maryland. CASH accomplishes its mission through operating a portfolio of direct service programs, building organizational and field capacity, and leading policy and advocacy initiatives to strengthen family economic stability. CASH and its partners across the state achieve this by providing free tax preparation services through the IRS program 'VITA', offering free financial education and coaching, and engaging in policy research and advocacy. **Almost 4,000 of CASH's tax preparation clients earn less than \$10,000 annually. More than half earn less than \$20,000.**

SB 563 would block unlicensed landlords from accessing the district courts' trio of specialized, fast-track procedures for eviction: Failure To Pay Rent (Real Prop. § 8-401), Tenant Holding Over (§ 8-402), and Breach of Lease actions (§ 8-402.1). Under SB 563, if a landlord does not have a valid rental license (where applicable), they cannot use special court procedures for eviction. If they want to use any of those three procedures, they need to comply with local law and obtain the necessary rental license.

Rental licensing is a fixture of local efforts to ensure safe, healthy housing throughout Maryland. By making licenses for rental operations contingent on routine housing inspections, Maryland jurisdictions have a proactive means to ensure that dwelling units meet habitability standards and to protect renters from unsafe housing conditions. Rental license schemes typically supplement local agencies' complaint-based inspection programs.

SB 563 puts the burden of proof on landlords to show a valid rental license to a judge in any action to evict a residential tenant.

Without a law that expressly places the burden on landlord plaintiffs, illegally operating landlords easily go undetected in the courts' streamlined eviction procedures. When an unlicensed landlord uses the courts' eviction procedures, they profit from licensing non-compliance by using the threat of eviction to collect rent. Equally, they may use the court-approved threat of eviction to silence and to intimidate tenants who withhold rent or raise complaints about substandard conditions. When unlicensed landlords carry through with court-ordered evictions, they remove tenants who spoke up and replace them with new tenants unaware of the unlicensed operation.

This cycle of profit and evasion of local law is unwittingly aided and abetted by judges, clerks, and sheriffs. It hurts renters and undermines local agencies' efforts to eradicate unsafe housing.

SB 563 ends the cycle and cleans up the courts by putting the onus on landlords to show a valid rental license where the local jurisdiction requires one.

SB 563 also clarifies the muddled law around standing to evict.

The 2011 Court of Appeals opinion *McDaniels v. Baranowski* held that unlicensed landlords lack claimant status in Failure To Pay Rent actions and may not use that special, summary procedure. The Court said that landlords must "plead and demonstrate" valid licensing when they file summary ejectment actions, but the decision did not spell out whether landlords must demonstrate the licensing at trial. Consequently, district court forms for Failure to Pay

Creating Assets, Savings and Hope



Rent actions require that landlords state a rental license number (where applicable), but there is no burden of proof unless a tenant contests the issue at trial. A 2015 review of eviction actions found that over 70 percent of landlords in one jurisdiction had either omitted licensing information or provided invalid information.

In November 2021, the Court of Appeals made the picture even less clear. In *Velicky v. Copycat Building*, the Court affirmed its prior decision that unlicensed landlords may not use summary ejectment for Failure To Pay Rent – but also found that such landlords may utilize Tenant Holding Over actions to evict their tenants.

In dissent, Judge Watts said, “Allowing Copycat to evict Petitioners in a tenant holding over action under RP § 8-402 without a license essentially renders the licensing requirement of Baltimore City Code, Art. 13, § 5-4(a) meaningless and defeats its purpose of ensuring that rental properties are fit to live in. As a result of the majority opinion, Copycat and other landlords will have very little incentive to get licenses, which would require bringing rental properties up to code.”

For these reasons, we encourage a favorable report on SB 563.

SB563_Hettleman_FAV.pdf

Uploaded by: Shelly Hettleman

Position: FAV

SHELLY HETTLEMAN
Legislative District 11
Baltimore County

Judicial Proceedings Committee

Joint Committee on Children, Youth,
and Families

Joint Committee on the Chesapeake
and Atlantic Coastal Bays Critical Area



James Senate Office Building
11 Bladen Street, Room 203
Annapolis, Maryland 21401
410-841-3131 · 301-858-3131
800-492-7122 Ext. 3131
Shelly.Hettleman@senate.state.md.us

The Senate of Maryland

ANNAPOLIS, MARYLAND 21401

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.

SB0564 - House Judiciary - FAV - Public Justice Ce

Uploaded by: Zafar Shah

Position: FAV



Zafar Shah
Attorney
Public Justice Center
201 North Charles Street, Suite 1200
Baltimore, Maryland 21201
410-625-9409, ext. 237
shahz@publicjustice.org

SB0564 - Landlord and Tenant – Eviction Prevention Services

**Hearing before the House Judiciary Committee,
March 30, 2022**

Position: SUPPORT (FAV)

Public Justice Center (PJC) is a nonprofit public interest law firm that serves over 600 renters each year. We stand with tenants to protect and expand their rights to safe, habitable, affordable, and non-discriminatory housing. PJC seeks the Committee’s Favorable report on SB0564.

SB0564 would make effective use of existing eviction prevention services when they are needed most: at court, on the day of trial of an eviction case. Under SB0564, “eviction prevention service provider” is defined to include legal assistance, financial assistance, mediation, and social or counseling services. The bill targets Maryland’s rapid “summary” court procedures for evicting renters – Failure to Pay Rent, Tenant Holding Over, and Breach of Lease. In these court proceedings, SB0564 would provide consistency in allowing parties’ a reasonable time, through recess or continuance, to become better prepared for trial or to engage with services aimed at avoiding trial and eviction altogether.

The policy objectives of SB0564 are reflected in the American Bar Association’s recently adopted [Ten Guidelines for Residential Eviction Laws](#). The ABA urges states “to promulgate law and policy consistent with and otherwise adhere to, the proposed guidelines for residential eviction laws.” Among these guidelines are the assurance of an opportunity to participate in pre-litigation eviction diversion, to obtain assistance of counsel, and to prepare an eviction defense.

HB0691 addresses rampant inconsistency among Maryland judges in allowing tenants time to engage eviction prevention services on day of trial.

In January 2022, Public Justice Center surveyed 30 pro bono housing attorneys from 12 offices operating in 15 Maryland jurisdictions. Attorneys were asked about how their local court treats continuance requests in most or all cases:

- Less than 30% of attorneys reported that they could rely on their local courts in all or most cases to continue an eviction proceeding so that the tenant could seek representation from their pro bono program.

- Only 17% of attorneys said that their local courts mostly or always continue trial to allow a tenant to come back with necessary evidence or witnesses.
- In contrast, 50% of attorneys reported that the courts mostly or always grant continuances to allow landlords to obtain necessary evidence or witnesses.

Additionally, 24 attorneys who provide free legal services at court concurrently with eviction dockets were asked about the need for a recess:

- 29 percent said they have sufficient time in most or all cases to interview tenants for representation purposes before the start of the docket.
- 33 percent said they have sufficient time in most or all cases to interview tenants for representation purposes *during* the docket.
- 54 percent reported feeling rushed when providing legal assistance at the start of or during the docket.

Although limited in sample size, these survey results tell the General Assembly a simple fact: district court **judges grant continuances or recesses sometimes, but they do not grant them all the time.** This leaves litigants, especially tenants, unsure how to proceed on day of trial. The trend also limits the effectiveness of already funded, staffed, and available eviction prevention efforts.

Continuances under SB0564

Foremost, this bill operationalizes tenants' access to counsel in eviction proceedings. When a self-represented litigant comes before a judge in an eviction case and shows good cause for additional time to seek attorney representation, SB0564 would require the judge to grant a one-time continuance "for a reasonable time not more than 5 business days."

This provision recognizes that while 2021's House Bill 18 established an Access to Counsel in Evictions mandate, it did not provide a procedure by which the courts would ensure that tenants who desire counsel may reliably obtain it before trial.

Summary of Senate amendments

SB0564 was amended in the Senate Judicial Proceedings Committee. A workgroup that included Chair Will Smith, Sen. Shelly Hettleman, Sen. Ron Watson, Sen. Chris West, and representatives of both Public Justice Center and Maryland Multi-Housing Association reached consensus on these changes:

1. Strike wrongful detainer actions from the scope of the bill
2. Require a showing of good cause for continuances
3. Lower the duration of a continuance from "not *less* than 5 business days" to "not *more* than 5 business days, except for purposes of subpoena or by consent of the parties

JPR adopted those amendments and additionally changed the bill to limit a party to a one-time continuance.

While these amendments weaken SB0564, Renters United Maryland believes the bill will advance due process in Maryland's eviction procedures.

We urge the House not to weaken SB0564 any further. Suggested clarifying amendments are on page 4.

Although legal and financial assistance information is more available than ever because of HB18, the efforts of multiple governmental agencies, and the Judiciary's Help Centers, concern remains that litigants appear in eviction actions realizing too late that they would benefit from assistance and that they need certain evidence to prove assertions about payments, notices, lease provisions, or property conditions.

SB0564 fills an important access-to-justice gap by providing a continuance of at least 5 workdays. This continuance provision also applies to litigants who show good cause to return to court with necessary evidence or witnesses or time to engage an eviction service provider such as the Office of Alternative Dispute Resolution or an Emergency Rental Assistance Program. The bill permits judges to grant a longer continuance, beyond 5 business days, for purposes of subpoena or by consent of the parties.

Recesses under SB0564

This bill also recognizes that litigants need consistency in their access to the legal services, rental assistance programs, and mediation programs that are increasingly available at court during eviction dockets.

- Legal services programs are now providing day-of-trial, first-come-first-serve assistance in Anne Arundel County, Baltimore County, Baltimore City, Caroline County, Dorchester County, Montgomery County, Prince George's County, Queen Anne's County, and Wicomico County.
- The District Court Help Centers are available for in-person assistance in nine court locations (Baltimore City, Catonsville, Cambridge, Frederick, Glen Burnie, Hagerstown, Rockville, Salisbury, Upper Marlboro).
- Prior to the COVID-19 pandemic, the Office of Alternative Dispute Resolution was conducting day-of-trial mediations in eviction cases in several jurisdictions, including Baltimore City, Montgomery County, and Wicomico County.

SB0564 would require simply that courts provide "a reasonable amount of time" during an eviction docket to allow a requesting litigant to engage with these eviction prevention services that are available during the docket. Reliable access to a recess would reduce the need for continuances, as pro bono attorneys, mediators, and others would have more time to assist parties during their first appearance at court.

SB0564 is about the future of Maryland's eviction process

In 2021, amid pandemic-caused scheduling delays, a federal moratorium on evictions, and the unprecedented availability of emergency rent relief, Maryland saw over 355,000 evictions actions filed – nearly a 50-percent reduction in eviction litigation compared to 2019. Actual evictions fell in 2021 by nearly 70 percent compared to 2019. So why require a fairer, more preventative eviction procedure

under SB0564? SB0564 is about the future – when there will not be pandemic protocols that delay trial or hundreds of millions in federal assistance to cover rental debt.

Currently, the Failure to Pay Rent procedure (Real Property § 8-401(e)(1)) allows judges the authority to continue a case for one day only. While cities and states across the country have met the challenges of the COVID-19 pandemic by standing up eviction diversion initiatives, often with the leadership of their courts, Maryland has not done so. Even if the Maryland Judiciary sought [full funding for an eviction diversion initiative through the National Center for State Courts](#), for example, our courts would not be able to move forward without fundamental changes to eviction procedures as set forth in SB0564.

SB0564 is the first step to any policy of using eviction trial dates to problem-solve and reach alternatives that do not place Maryland renters at risk of losing their homes.

Suggested clarifying amendments

These suggested changes to SB0564T are intended only to clarify the language of the bill after amendments made in the Senate. These changes do not alter the substance of the amended bill:

SB0564T – PAGE 2

(2) A SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IF GOOD

CAUSE IS SHOWN, A ONE-TIME CONTINUANCE FOR A REASONABLE AMOUNT OF TIME

NOT ~~LESS~~ MORE THAN 5 BUSINESS DAYS IF:

(i) ~~— EITHER EITHER~~ PARTY SEEKS:

1. ATTORNEY REPRESENTATION; ~~OR~~
2. TO PROCURE NECESSARY WITNESSES OR OBTAIN

DOCUMENTS OR OTHER PROOF OF A CLAIM OR DEFENSE; OR

(ii) ~~— A PARTY DEMONSTRATES THAT THE INTERESTS OF JUSTICE~~

~~WILL BE BETTER SERVED BY 3.~~ THE COURT’S ORDER OF REFERRAL OF THE PARTIES TO

AN EVICTION PREVENTION SERVICES PROVIDER.

(3) THE COURT MAY GRANT A CONTINUANCE UNDER PARAGRAPH (2)

OF THIS SUBSECTION FOR MORE THAN 5 BUSINESS DAYS ON ITS OWN MOTION, WITH THE BY CONSENT OF ALL THE PARTIES, OR FOR PURPOSES OF A SUBPOENA.

Public Justice Center is a member of the Renters United Maryland coalition and asks that the Judiciary Committee **issue a FAVORABLE report on SB0564**. If you have any questions, please contact Zafar Shah, shahz@publicjustice.org, (410) 625-9409 Ext. 237.

The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.