



HB 36: Real Property – Actions to Repossess – Proof of Rental Licensure
HEARING BEFORE THE JUDICIARY COMMITTEE, JANUARY 19, 2023
POSITION: SUPPORT (FAV)

The Pro Bono Resource Center of Maryland (“PBRC”), an independent 501(c)(3) non-profit organization, is the statewide coordinator, thought leader and clearinghouse for volunteer civil legal services in Maryland. As the designated pro bono arm of the Maryland State Bar Association, PBRC provides training, mentorship, and pro bono service opportunities to members of the private bar. We respond to acute legal needs identified in areas across the state by piloting and operating innovative pro bono service projects targeting specific legal problems or populations.

In May 2017, with a grant from the Maryland Judiciary’s Access to Justice Department, PBRC launched the **Tenant Volunteer Lawyer of the Day (TVLD) Program** in Baltimore City Rent Court to provide day-of-court legal representation to tenants who appear unrepresented for their proceedings. Since then, this continually-expanding Program has allowed PBRC staff and volunteer attorneys to represent thousands of tenants in both Baltimore City and Baltimore County in multiple types of legal actions that could result in eviction. We have witnessed first-hand the difficulties and unsafe living conditions many of these tenants face while working to stay housed.

PBRC urges a favorable report on HB 36 as it identical to SB 563, which passed the House (90-45) and Senate (47-0) in 2022 but was vetoed by Gov. Hogan. HB 36 will stop landlords who do not have an operating license from using streamlined court processes (Failure To Pay Rent, Tenant Holding Over, and Breach of Lease) to evict tenants in localities that have a licensing law. Licensing laws protect public health and safety through periodic inspections. **Like any other business-owner, if a landlord wants to file suit in Maryland courts, they must be licensed in any jurisdiction that requires licensure.**

Under current Maryland law, individual jurisdictions can elect to require landlords to be licensed. Licensure protects tenants by requiring inspection for unsafe conditions. Most landlords comply with these laws. However, we have represented over 1,000 clients in Baltimore City and Baltimore County, both of which have licensing laws, whose landlords are unlicensed and thus operating illegally. Often these landlords refuse to make necessary repairs and attempt to use summary eject procedures to evict tenants when they are behind on rent. Last year alone, we raised non-licensure as a defense in 541 Failure To Pay Rent cases. **When unlicensed landlords use eviction court, it encourages all landlords to ignore licensing laws and increases the risk of tenants being subjected to health and safety hazards**

While current law holds that illegally operating landlords cannot use the court system to evict through a failure to pay rent action, the Court created a loophole in *Velicky v. CopyCat* by allowing illegally operating landlords to obtain an eviction by bringing a Tenant Holding Over case. 476 Md. 435 (2021). **The number of Tenant Holding Over cases filed has risen dramatically – a 116% increase from FY 2018 to FY 2022. Under current law, landlords in these cases may ignore basic health and safety laws and still use the taxpayer-funded court system to evict tenants.**

As Judge Shirley Watts wrote in dissent in *Velicky*, 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.”

Notably, HB 36 includes compromises made last session between Maryland Renters United and the Maryland Multi-Housing Association. These compromises include:

- Striking the requirement that the landlord show a license when filing a complaint;
- Allowing unlicensed landlords to proceed to a Tenant Holding Over or Breach of Lease trial if they show that the tenant's act caused the landlord not to have a rental license or constitutes an imminent threat to danger to person or property; and
- Allowing landlords to submit an electronic record or provisional license in their burden of proof.

PBRC is a member of the Renters United Maryland, a statewide coalition of renters, organizers, and advocates. **We support HB 36 because it will ensure that local licensing laws can adequately protect Maryland tenants from unsafe conditions in their home.**

For the above reasons,

PBRC urges a FAVORABLE report on HB 36.

Please contact Katie Davis, Director of PBRC's Courtroom Advocacy Project, with any questions.

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