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January 17, 2023

To: The Honorable Luke Clippinger
Chair, Judiciary Committee

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

Re: House Bill 36 – Real Property – Actions to Repossess – Proof of Rental Licensure
(SUPPORT)

The Consumer Protection Division of the Office of the Attorney General (the “Division”) supports House Bill 36 sponsored by Delegates Mary Lehman, Lorig Charkoudian, Linda Foley, Dana Jones, Sheila Ruth, and Jen Terrasa, 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. House Bill 36 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). House Bill 36 would codify, and broaden, the *McDaniel* principle and overturn the *Copycat* holding. In

overturning *Copycat*, however, House Bill 36 recognizes a need, and allows, for the *Copycat* principal in the narrow circumstance where a landlord can demonstrate the tenant was responsible for the rental license to be revoked, suspended, or denied or when a tenant presents a clear and imminent danger.

Additionally, House Bill 36 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, House Bill 36 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. House Bill 36 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 House Bill 36 a favorable report.

cc: The Honorable Mary Lehman
The Honorable Lorig Charkoudian
The Honorable Linda Foley
The Honorable Dana Jones
The Honorable Sheila Ruth
The Honorable Jen Terrasa
Members, Judiciary Committee