

## Economic Action Maryland

### HB 36 - Real Property – Actions to Repossess – Proof of Rental Licensure

Hearing before the House Judiciary Committee on January 19, 2023

Position: SUPPORT (FAV)

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Economic Action Maryland 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.

HB 36 is identical to SB 563, which passed the House (90-45) and Senate (47-0) in 2022 but was vetoed by Gov. Hogan. HB 36 would 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) from evicting tenants in localities that have a licensing law. Licensing laws protect public health and safety through periodic inspections. **Like any other business, if a landlord wants to file suit in Maryland courts, they must be licensed in any jurisdiction that requires licensure.**

Licensing laws in six (6) counties and other municipalities require landlords to pass a periodic a health and safety inspection. The vast majority of landlords comply with these laws. However, we have witnessed many clients or constituents whose predatory landlords refuse to make repairs, refuse to obtain a license, extract as much rent as possible, and when the tenant complains, move to evict them through one of Maryland's streamlined eviction processes. **When unlicensed landlords successfully 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 stops illegally operating landlords from obtaining a judgment for eviction for failure to pay rent, the Court created a loophole in *Velicky v. CopyCat* by allowing illegally operating landlords to obtain an eviction in Tenant Holding Over cases. 476 Md. 435 (2021). **The number of Tenant Holding Over cases filed has risen dramatically during the pandemic – a 116% increase from FY 2018 to FY 22. 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.**

Judge Shirley Watts understood this dynamic, and wrote in dissent in *Velicky*: “Allowing [the landlord] to evict [tenants] in a tenant holding over action under RP § 8-402 without a license essentially renders the licensing requirement of Baltimore City Code ... 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.”

Renters United Maryland made significant compromises in 2022 and had reached agreement with Maryland Multi-Housing Association on the amended bill, which passed the House and Senate and is being reintroduced as it passed in 2022. These compromises include:

- Strike the requirement that the landlord show a license when filing a complaint;
- Allow 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; and
- Allow landlords to submit an electronic record or provisional license in their burden of proof.

Additionally HB 36 does not require proof of licensure if the landlord is proceeding on a breach of lease case alleging that the tenant’s behavior constitutes an imminent threat of danger to person or property.

Some landlords still oppose the bill claiming that one obstructive tenant can hold up licensing for an entire building and prevent other evictions. This is a red herring.

- No large landlord has testified to specific examples of whether they acted diligently to make repairs and obtain a license but were denied because of the actions of one tenant who they could not evict.
- Landlords have many tools to evict any tenant who would hold up repairs including lease provisions permitting them to enter the unit to address the issue when the tenant is not present, or to enter even if the tenant objects when they have to address emergencies or if the tenant is causing the code violation.
- Code enforcement has the right to enter the unit even when the occupant objects either for emergency issues or upon issuance of a warrant that they can obtain.

Economic Action Maryland 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 HB 36.**

Best,  
Michael Donnelly  
Tenant Advocacy Coordinator

