



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

ELIZABETH HILLIARD
DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: House Bill 765 – Criminal Law – Counterfeiting and Possession of Counterfeit Lease
FROM: Maryland Office of the Public Defender
POSITION: UNFAVORABLE
DATE: February 13, 2026

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on House Bill 765.

House Bill 765 makes it a crime to create or possess counterfeit leases and rental agreements with the intent to defraud by adding new language to Section 601 of Title 8 of the Criminal Law Article. Although the bill is intended to combat the fraudulent transfers and possession of rental properties, it overlaps with existing fraud laws, lacks safeguards for victims of housing scams, and may disproportionately harm vulnerable groups, such as low-income renters and older adults.

Overview of Maryland's Housing Crisis

Maryland faces a severe housing crisis, with Governor Moore's 2024 assessment identifying a shortfall of over 120,000 units (including nearly 96,000 affordable units),¹ and DHCD's 2025 projections estimating the need for 465,000 additional single-family homes and 125,000 multifamily units by 2045.² In high-cost jurisdictions such as Baltimore City and Montgomery County, more than half of renter households face unaffordable housing costs, mirroring statewide patterns of severe rent burden. Over 50% of Maryland renters—particularly in high-cost areas like Baltimore City and Montgomery County—are cost-burdened, spending more than 30% of their income on housing. As a result, many low-income renters find themselves in precarious housing situations, struggling to make ends meet. This crisis has increased the risk of exploitation for those seeking immediate and affordable housing.

The Growing Prevalence of Housing Scams and Their Victims

Surveys confirm rampant rental fraud: 70.7% of providers reported increased fraudulent applications, 93.3% reported some fraud, and 23.8% of evictions were tied to fraudulent rental scams. TransUnion noted a 30% spike in fraud in 2020, and 6.4% of U.S. renters (5.2 million) report

¹ Maryland Office of the Governor. "Housing Priorities." Maryland Governor's Office. Accessed January 29, 2026. <https://priorities.maryland.gov/pages/housing>.

² Maryland Department of Housing and Community Development. 2025 Maryland State Housing Needs Assessment: Executive Summary. Crownsville, MD: Maryland Department of Housing and Community Development, 2025. <https://dhcd.maryland.gov/Documents/Research/Housing-Needs-Assessment/Executive-Summary-v0627-SHNA-2025.pdf>.

financial losses.³ These findings underscore the growing prevalence of housing scams and highlight the need for increased vigilance by property owners and increased protections for renters.

Among the most vulnerable renters are low-income and elderly individuals seeking affordable housing, often drawn by below-market rents. Recently, the Maryland Department of Housing and Community Development issued a warning about online scams perpetrated by individuals falsely claiming to administer Section 8 Housing Choice vouchers, noting that low-income renters are a primary target.⁴

Additionally, racial minorities, particularly Black and Latinx renters, are overrepresented among victims due to systemic barriers and historical inequities that hinder homeownership. Elderly renters are also frequent targets, as they may be less familiar with the complexities of online rental processes. Furthermore, immigrants face increased vulnerability due to language barriers and a lack of knowledge about local laws, making them prime targets for scammers.

Lack of Protections for Low-Income Renters and Housing Scam Victims

Introducing criminal penalties for possession of counterfeit lease or rental agreements, as proposed in House Bill 765, could adversely affect low-income renters and families.

Criminal liability under this bill turns on whether a person “knowingly” creates or possesses a counterfeit lease “with intent to defraud.” Low-income renters often obtain housing through intermediaries—friends, “agents,” social media contacts, or community members—and are handed documents they did not draft and cannot easily verify. They may pay deposits in cash or via apps without receipts, communicate by text, and never meet the true property owner. When law enforcement later encounters a questionable lease, the only person physically holding the “counterfeit” document is often the tenant, not the individual who created it. In that situation, the State may be tempted to infer knowledge and intent from possession and circumstances alone. For tenants with limited English proficiency, limited literacy, or limited familiarity with formal leasing practices, the risk is that their confusion and poverty are misinterpreted as “suspicious” rather than as evidence of exploitation.

Additionally, House Bill 765 does not create any affirmative defenses, diversion, or protections for occupants who unknowingly move into a unit under a counterfeit lease. Hence, victims still risk being treated as trespassers or civil defendants in other proceedings even when they acted in good faith. The bill does not provide restitution procedures, emergency relocation assistance, or a right to delay removal for tenants who learn their lease is counterfeit; therefore, low-income renters who are victims of fraudulent leases may still face sudden displacement and financial loss even if the lease creator is prosecuted.

³ Federal Bureau of Investigation. “FBI Warns of Spike in Rental and Real Estate Scams.” FBI Boston Press Releases, accessed January 29, 2026. <https://www.fbi.gov/contact-us/field-offices/boston/news/press-releases/fbi-warns-of-spike-in-rental-and-real-estate-scams>.

⁴ Maryland Department of Housing and Community Development. “Maryland Department of Housing and Community Development Warns of Housing Scam.” News release, June 21, 2024. <https://news.maryland.gov/dhcd/2024/06/21/maryland-department-of-housing-and-community-development-warns-of-housing-scam/>.

Enforcement Disparities in Low-Income Communities

The impact of housing challenges on racial minorities is both profound and alarming. In Maryland, Black and Latino renters, already grappling with significant income disparities, find themselves more vulnerable to scams as they often rely on informal networks or unverified platforms for housing.⁵ This economic vulnerability is exacerbated by systemic barriers rooted in historical redlining and housing discrimination, which have disproportionately affected these communities, making them heavily reliant on rental housing and more susceptible to fraud and displacement.^{6 7}

Furthermore, data reveal that policies incorporating criminal elements related to housing violations often lead to higher eviction rates among low-income populations.^{8 9} Layering a new counterfeiting offense onto the housing system increases the number of police encounters and the stakes of any dispute over paperwork. In neighborhoods where residents already experience over-policing, officers responding to a housing complaint will now have a new criminal charge available whenever a lease “looks wrong,” further incentivizing quick, on-the-spot judgments about authenticity and intent. Because informal leasing practices are most often concentrated in low-income neighborhoods, those communities will bear a disproportionate share of the arrests, investigations, and criminal records generated under the proposed statute.

Existing Legal Protections for Property Owners

Currently, several provisions in Title 8 of the Criminal Law Article authorize prosecutors to investigate fraudulent paperwork in housing transactions.¹⁰ Maryland’s theft and fraud statutes prohibit obtaining money or property by deception.¹¹ Maryland’s forgery and uttering provisions criminalize the making or use of fraudulent documents, including contracts, assignments, and other legal instruments.¹² In practice, a fabricated lease for a property the “landlord” does not own, a forged signature on a genuine lease form, or materially altered terms used to induce a renter to pay an application fee, security deposit, or rent can all be prosecuted under these existing sections as theft by deception, forgery, or use of a false instrument.¹³ Creating or sharing a fake or altered lease for financial gain falls under Maryland’s existing fraud and forgery laws; a specific lease reference in the counterfeiting statute is unnecessary.¹⁴

⁵ Maryland Center on Economic Policy. Racial Disparities in Housing and Wealth in Maryland. Annapolis, MD: Maryland Center on Economic Policy, 2024.

⁶ Urban Institute. The Legacy of Redlining: Housing Discrimination and Systemic Inequities. Washington, D.C.: Urban Institute, 2023.

⁷ National Low Income Housing Coalition. Out of Reach: The High Cost of Housing in America. Washington, D.C.: NLIHC, 2024. <https://nlihc.org>.

⁸ Legal Aid Bureau of Maryland. The Racial Impact of Evictions in Maryland. Baltimore, MD: Maryland Legal Aid, 2024.

⁹ Maryland Center on Economic Policy. Racial Disparities in Housing and Wealth in Maryland. Annapolis, MD: Maryland Center on Economic Policy, 2024

¹⁰ Md. Code Ann., Crim. Law §§ 8-301 et seq. (2024).

¹¹ Md. Code Ann., Crim. Law § 8-301 (theft by deception)

¹² Md. Code Ann., Crim. Law §§ 8-601–602 (counterfeiting/false instruments); § 8-607 (uttering).

¹³ See, e.g., Md. Code Ann., Crim. Law § 8-402 (issuing false documents)

¹⁴ Md. Code Ann., Crim. Law tit. 8, Subtit. 6 (covering broad categories of counterfeit instruments and forgery)

Additionally, Maryland provides property owners with a targeted civil remedy to address unauthorized occupancy through wrongful detainer actions. Under Maryland Real Property Article § 14-132, “wrongful detainer” is defined as a person in actual possession of property who does not have a legal right to possession and whose possession is not covered by other, more specific statutory provisions (such as landlord–tenant actions under Title 8 or situations governed by other exclusive remedies).¹⁵ Property owners may file a wrongful detainer complaint in the District Court for the county where the property is located, after which the court must promptly issue a summons directing the occupant to appear and show cause why possession of the premises should not be awarded to the owner.¹⁶ If the court finds that the complainant is entitled to possession, it enters judgment for restitution and issues a warrant authorizing the sheriff or constable to deliver possession to the owner; in appropriate cases, the court may also award damages, court costs, and attorney’s fees when proper service and jurisdictional requirements are met. This process—coupled with the ability to request a jury trial and to appeal—ensures a civil, judicial mechanism that balances the rights of property owners to reclaim possession with notice and an opportunity to be heard for occupants, providing an effective means of resolving wrongful occupancy without resorting to additional criminal penalties.¹⁷

While expanding Maryland’s counterfeiting statute to cover leases and rental agreements is framed as a tool to prevent rental fraud, it neither guarantees swift relief for property owners nor ensures that the true counterfeiters are prosecuted. The criminal process does not replace or expedite the civil mechanisms already in place to restore possession. Owners must still navigate investigations, charging decisions, and court dockets before any criminal case is resolved—often long after the immediate occupancy issue has arisen. At the same time, enforcement of the proposed statute will start with whoever is in possession of the questionable lease, which is frequently the tenant, not the individual who drafted it. Tenants who relied in good faith on counterfeit paperwork—especially low-income renters who use informal channels to find housing—risk being treated as suspects or leverageable witnesses simply for holding the document.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an UNFAVORABLE report on House Bill 765.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

Authored by: Kirsten Gettys Downs
Director of Systemic Reform, Maryland Office of the Public Defender
Kirsten.Downs@maryland.gov

¹⁵ Md. Code Ann., Real Prop. § 14-132 (2025).

¹⁶ Maryland District Court. Landlord and Tenant Cases: A Procedural Guide for Property Owners. Annapolis, MD: Maryland Judiciary, 2024.

¹⁷ Maryland Legal Aid. Tenant Rights and Responsibilities in Maryland. Baltimore, MD: Legal Aid Bureau of Maryland, 2024.