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HB 765 – Criminal Law - Counterfeiting and Possession of Counterfeit Lease - Penalty

Hearing before the House Judiciary Committee on February 17, 2026

Position: UNFAVORABLE

The Public Justice Center (PJC) is a nonprofit public interest law firm that stands with tenants to protect and expand their rights to safe, habitable, affordable, and non-discriminatory housing and their rights to fair and equal treatment by Maryland’s landlord-tenant laws, courts, and agencies. The PJC advocates for systemic change to build a just society.

Our organization is a member of Renters United Maryland, which opposes **HB 765**. While we appreciate the intent in **HB 765** to hold accountable the “scamlords” who advertise properties online, accept thousands of dollars from families desperate for housing, sign leases with those families, and then disappear after they receive the money. We agree that the General Assembly should take further action to hold the social media companies that enable this fraud accountable.

We are concerned, however, that HB 765 will be abused by bad actors and will add to the long history of over-criminalization of our poor and Black communities. Unlicensed landlords and property flippers already abuse the Wrongful Detainer court process to effect a quick eviction of renting families who they don’t want in the property. These same unscrupulous actors will now have a new tool at their disposal: Accuse the renters of possessing a fraudulent lease and swear out charges with the District Court Commissioner to have the renters arrested – thereby accomplishing a de facto eviction.

Black renters in Maryland will be disparately impacted by HB 765. By passing **HB 765** is also superfluous. Several provisions in Title 8 of the Criminal Law Article give prosecutors the authority to pursue fraud in housing transactions.¹ Maryland’s theft and fraud statutes prohibit obtaining money or property by deception.² Maryland’s forgery and uttering provisions criminalize the making or use of fraudulent documents, including contracts, assignments, and other legal instruments.³ 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

¹ Md. Code Ann., Crim. Law §§ 8-301 et seq. (2024).

² Md. Code Ann., Crim. Law § 8-301 (theft by deception)

³ Md. Code Ann., Crim. Law §§ 8-601–602 (counterfeiting/false instruments); § 8-607 (uttering).

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instrument.⁴ Creating or sharing a fake or altered lease for financial gain falls under Maryland's existing fraud and forgery laws; HB 765 is unnecessary to criminalize squatting and rental fraud.

HB 765 does not create any affirmative defenses, diversion, or protections for occupants who unknowingly move into a unit under what they later learn is a counterfeit lease. The bill criminalizes the "possession" of a fraudulent lease or rental agreement, which could include the occupant-victim of a scamlord operation. Victims of a rental fraud will 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.

Introducing criminal penalties for possession of counterfeited lease or rental agreements can have adverse effects on 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.

We urge the Committee to reconsider further expanding the criminal code with undefined terms. Most of the other documents in this provision of the criminal code are negotiable instruments or recorded deeds. A lease or rental agreement is neither and should be analyzed more thoroughly before criminalizing possession of such a document.

The Public Justice Center asks that the Committee issue an **UNFAVORABLE** report on **HB 765**.

⁴ See, e.g., Md. Code Ann., Crim. Law § 8-402 (issuing false documents)

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