



HOMELESS PERSONS REPRESENTATION PROJECT, INC.

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**Support – HB 491 – Landlord and Tenant – Repossession for Failure to Pay Rent –
Lead Risk Reduction Compliance**
Hearing of the Environment & Transportation Committee, February 18, 2020

The Homeless Persons Representation Project, Inc. (HPRP) is a non-profit civil legal aid organization that provides free legal representation to people who are homeless or at risk of homelessness on legal issues that will lead to an end to homelessness. HPRP regularly represents tenants in failure to pay rent cases and other landlord-tenant matters in Baltimore City.

HB 491 would allow tenants in Rent Court to raise as an affirmative defense their landlord's failure to demonstrate that the property in question has a valid lead certificate, risk reduction certificate and applicable rental licenses. It would also require the court to dismiss the complaint when the landlord cannot produce such documentation for the property. This legislation will strengthen Maryland's Reduction of Lead Risk in Housing Act by expanding its enforcement and further motivating landlords to comply, thereby keeping Maryland renters safe from the very real and disastrous risks of lead poisoning.

HB 491 will help to ensure that renters are not pushed out of their homes by landlords who fail to comply with Maryland's Reduction of Lead Risk in Housing Act

Under current landlord-tenant law, landlords are required to disclose and attest to their compliance with the Maryland Reduction of Lead Risk in Housing Act (hereinafter "lead law") in a complaint for Failure to Pay Rent. A 2015 study by the Public Justice Center found that 79% of landlords in Baltimore City Rent Court failed to provide valid lead compliance information.¹ In addition, 68% of landlords in Baltimore City Rent Court failed to provide valid information about Baltimore Housing registration/licensing – which itself requires compliance with the lead law.² Yet, in 60-70% of cases involving non-compliant properties, the court nevertheless ruled in favor of the landlord. This is in large part because current Maryland law states that a landlord's non-compliance with the lead law is "not an issue of fact at trial" – meaning that tenants cannot raise it as a defense in Rent Court and a judge cannot dismiss a case brought by a property owner flagrantly violating the law.³

HB 491 aims to right this wrong. The bill would allow tenants in Rent Court to raise as an affirmative defense their landlord's failure to comply with the lead law. It would also require that judges dismiss a Failure to Pay Rent case where the landlord cannot show the court a valid lead certificate for the property in question. Judges would retain the ability to postpone cases for up to ten days to allow landlords to produce the required documents.

This bill is a consensus recommendation of the 2016 Rent Court Summer Study – which involved landlords, tenants, and the Judiciary. HB 491 will protect tenants, empower judges, and curb the number of landlords using Rent Court and summary ejectment to evict tenants when they are not themselves in compliance with the lead law.

HPRP urges a FAVORABLE REPORT on HB 491.

Please contact Karen E. Wabeke, Homeless Persons Representation Project, at 410-685-6589 ext. 20 or kwabeke@hprplaw.org with any questions.

¹ Public Justice Center, "Justice Diverted: How Renters are Processed in Baltimore City Rent Court," (2015), available at <http://www.abell.org/publications/justice-diverted-how-renters-are-processed-baltimore-city-rent-court>.

² *Id.*

³ See Maryland Code, Real Property § 8-401(c)(2)(i).