



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

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February 18, 2020

Honorable Kumar Barve, Chair
House Environment and Transportation Committee
6 Bladen St.
250 House Building
Annapolis, MD 21401

**RE: Testimony in Support of House Bill 491 Landlord and Tenant –
Repossession for Failure to Pay Rent – Lead Risk Reduction Compliance**

Dear Chairperson Barve and Committee Members:

Thank you for the opportunity to testify in support of House Bill 491. H.B. 491 is legislation that would require landlords to adequately prove they are in compliance with the lead risk reduction requirements and rental licensing laws before pursuing a failure to pay rent complaint against a tenant. Maryland Legal Aid, "Legal Aid," is a private, non-profit organization that provides free legal services to indigent Maryland residents. In our 12 offices around the state, we help individuals and families in every county with a wide array of civil legal issues including housing, consumer, public benefits, and family law matters. We also represent abused and neglected children and provide legal assistance to senior citizens and nursing home residents. This letter serves as notice that Gregory Countess will be testifying on behalf of Legal Aid at the request of Delegate Samuel Rosenberg and Delegate Regina Boyce.

Legal Aid's clients are defendants in these summary proceedings throughout the state. Legal Aid reviewed the failure to pay rent practice of all the jurisdictions in the state in a statistical study of complaints filed in 2012. Maryland Legal Aid's rent court study of 2012 cases found that 30% of rent court cases were decided in error.

¹ Errors on the face of the complaints and in the trial proceeding were not addressed, and landlords were granted the right to evict tenants when their cases should have been dismissed. The study indicated there were cases when the landlord did not prove its license as required by law but landlords were still granted judgments.

In that study, Legal Aid found that in 11% cases where default judgments were entered, the lead paint certificate portion of the form complaint was not completed. Requiring compliance with lead paint registry laws and including the lead paint certificate on the court's form shows it is a critical issue for rental housing. H.B. 491 would allow courts to play a part in ensuring this important issue is not overlooked, because under current law it may not be an issue of fact at a failure to pay rent trial.

Also, the study found that in 8% of cases where default judgments were entered, the section regarding required license was incomplete or blank. In 2011, the Maryland Court of Appeals determined that a landlord cannot use the failure to pay rent process if they have not complied with a residential licensing requirement. *McDaniel v. Baronowski*, 419 Md. 560 (2011). There the Court stated: "In order to invoke the facile process of summary ejectment, a landlord in those jurisdictions requiring licensure, must affirmatively plead and demonstrate that he is licensed at the time of the filing of the complaint for summary ejectment in order to initiate the summary ejectment process." *McDaniel*, at 587. After that ruling, the District Court form was adjusted to include a paragraph about the requirement for a license. However, even with the additional paragraph on the form, judgments were being entered against tenants when that paragraph was completely blank without the court requesting or receiving information regarding the requirement of a license and if the landlord was in compliance with that requirement. H.B. 491 will ensure the District Court require landlords comply with local licensing requirements before using the quick process in the District Court to collect rent and repossess property from their tenants.

Additionally, H.B. 491 improves the procedure by allowing for a postponement of ten days to supply sufficient documentation of the required compliance or for either party to provide other proof for their claim or defense. By allowing for adequate time, the parties will be able to thoroughly present their proof to the court in each case which will improve their access to justice and the integrity of the procedure.

These improvements to the failure to pay rent process will protect the basic human right outlined in Article 25 of the Universal Declaration of Human Rights which declares that "[e]veryone has the right to a standard of living adequate for the health and well-being of himself and of his family, including...housing..." The failure to pay rent complaint process is the quickest way landlords can regain possession of the property and therefore the quickest way tenants can lose

¹ Maryland Legal Aid, Human Rights in Maryland's Rent Courts: A Statistical Study, September 2016, http://www.mdlab.org/wp-content/uploads/MDLegalAid_RentCourtStudy_Release-Date-9-8-16.pdf

their housing. The improvements in H.B. 491 will have an impact on protecting the right to housing for Maryland renters by ensuring that fairness is not lost in the quick nature of the process.

For the above reasons, Maryland Legal Aid respectfully requests that you give H.B. 491 a favorable report.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gregory Countess". The signature is fluid and cursive, with a large initial "G" and "C".

Gregory Countess

Director of Advocacy for Housing and Community Development