



January 26, 2021

The Honorable Kumar P. Barve
House Environment and Transportation Committee
House Office Building, Room 251
Annapolis, Maryland 21401

Re: House Bill 49 – Landlord and Tenant - Repossession for Failure to Pay Rent - Lead Risk Reduction Compliance

Dear Chairman Barve and Members of the Committee:

The Maryland Department of the Environment (MDE) has reviewed House Bill 49, entitled *Landlord and Tenant - Repossession for Failure to Pay Rent - Lead Risk Reduction Compliance* and we would like to provide information regarding this bill.

Section 1 of the bill would amend the Real Property Article to make changes related to a landlord's demonstration of compliance with the Reduction of Lead Risk in Housing Act (the Act) and local registration and licensing laws when the landlord is seeking to repossess a rental property for failure to pay rent. Existing law requires the complaint to repossess a pre-1978 residential rental property (affected property) to include a statement that the landlord has registered and renewed the affected property with MDE, and either the number of the inspection certificate for the current tenancy or a statement that denial of access by the tenant precluded the landlord for obtaining an inspection certificate. The inspection certificate itself need not be submitted with the complaint, and the information regarding compliance with the Act provided on the complaint may not be an issue of fact at trial.

House Bill 49 would add a requirement for a landlord to affirmatively state on the complaint whether the property is an affected property. A landlord would be required to provide in the proceeding direct evidence of information regarding compliance with the Act and any State and local registration and license requirements included in the complaint. The bill would repeal a provision prohibiting information regarding compliance with the Act included in the complaint from being an issue of fact at the trial and would require a district court to determine if the landlord met the burden of providing direct evidence before deciding the amount of unpaid rent due. The bill would authorize a district court to adjourn the trial for up to 10 days for parties to obtain documents or other proof of claim or defense. Section 1 of the bill would take effect on January 31, 2022, but only if MDE notifies DLS by that date that its Lead Registration Compliance and Accreditation (LRCA) database is available to the public.

The MDE's Lead Poisoning Prevention Program oversees compliance with the Act. The law requires property owners to register and renew their affected properties annually with MDE and obtain lead paint risk reduction certificates at certain triggering events. Under the proposed legislation, a landlord would be required to provide direct evidence of an affected property's compliance with the Act and a judge would be required to decide whether the landlord met the burden of providing the required direct evidence. This may incentivize landlords to comply with the Act. This effect may be further enhanced by similarly amending § 8-402.1 of the Real Property Article, which deals with breach of lease proceedings. Otherwise, landlords of properties that are not in compliance with the Act could seek to evict tenants through breach of lease actions rather than a failure to pay rent actions. Compliance with the Act is critical to Maryland's success in reducing the incidence of childhood lead poisoning.

House Bill 49 would also require that MDE, on or before July 1, 2021, report to the General Assembly on the status of MDE's implementation of the LRCA database; and further requires that if MDE's initial report does not indicate that the LRCA database is publicly accessible, beginning September 1, 2021, and quarterly thereafter, MDE must report to the General Assembly on the status of LRCA database implementation until the database is accessible to the public. The bill also mandates that MDE notify the Department of Legislative Services (DLS) if the LRCA database is accessible to the public on or before January 31, 2022; and if the DLS does not receive said notice, section 1 of the bill would become null and void without any further action by the General Assembly. As currently drafted, if LRCA is delayed at all beyond January 31, 2022, then section 1 of the bill, which imposes requirements for a landlord to provide evidence of compliance with the Act, would be permanently void. If the intent was to ensure that landlords and other members of the public have access to certificate data through LRCA prior to the effectiveness of section 1, a better approach may be to specify that section 1 shall become effective a specific number of days after MDE notifies DLS that LRCA is accessible to the public.

MDE's work with a contractor to develop the LRCA database is on track to go live by October 2021; and includes a public interface component. If the bill's September 1, 2021 reporting requirement were delayed until December 1, 2021, the need to submit a status report after July 1, 2021 would be mitigated.

Thank you for your consideration. We will continue to monitor House Bill 49 during the Committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or by e-mail at tyler.abbott@maryland.gov.

Sincerely,



Tyler Abbott

cc: The Honorable Samuel I. Rosenberg
Kaley Laleker, Director, Land and Materials Administration