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Testimony of Delegate Samuel I. Rosenberg
Before the House Environment and Transportation
Committee In Support Of
House Bill 49
**Landlord and Tenant - Repossession for Failure to Pay Rent –
Lead Risk Reduction Compliance**

Mister Chair and Members of the Committee:

If our legal system favors those who already are wealthy and in positions of power, how can it provide justice to those who require its relief?

Landlords and tenants both have obligations to one another. The landlord is expected to provide a safe and livable property, free of obvious hazards to health. The tenant is expected to pay rent on time and keep the property in decent condition. However, the balance of power is significantly favored towards the former in certain court proceedings.

A landlord who brings a court action for unpaid rent finds quick resolution: a trial to recover missing rent and forced eviction may be scheduled with only five days' notice to the tenant. A tenant who asserts the presence of environmental hazards as a reason to withhold rent payment, however, is prevented from even demonstrating the landlord's failure to remove lead from the property. In other words, when a landlord seeks to evict a tenant, a judge is not required to consider that a landlord has not complied with existing law, even when the evidence is uncontested.

Under House Bill 49, a landlord must have proof that the affected property is registered with the Maryland Department of the Environment's Lead Registry Online System and a Full Risk Reduction Certificate. These documents will soon be accessible by both landlords and tenants.

Secretary of the Environment Ben Grumbles has confirmed that MDE's development of the new Lead Registration Compliance and Accreditation (LRCA) database system is on

schedule.¹ The database is expected to go live by this coming October. Consequently, the effective date of HB 49 is January 31, 2022.

HB 49 would not create any additional obligations or administrative responsibilities beyond what is already required by existing law.

If a landlord files an action to repossess for failure to pay rent, that landlord should have to provide evidence that the property complies with all lead safety requirements. Simply put, HB 49 would forbid landlords' use of the judiciary to put tenants on the streets if the landlords themselves cannot demonstrate compliance with the law.

HB 49 acknowledges that landlords may require more time to compile evidence of regulatory compliance. This bill extends the timeline for either party to collect evidence relevant to issues in the case from one day to ten days. That timeframe can be further extended with consent from both parties.

The Court of Appeals held that a rental property owner who does not possess a current license to operate the premises is not entitled to utilize the summary ejectment procedures outlined in Section 8-401 of the Real Property Article upon a tenant's failure to pay rent, if the dwelling is located in a jurisdiction that requires owners to obtain such licenses." *McDaniel v. Baranowski*, 19 A.3d 927, 929 (Md. 2011). This bill reflects the Court's holding with additional time for landlords to gather evidence of compliance with the statute.

For decades we have known that excessive levels of lead exposure in children cause reduced IQ, increased risk of ADHD, brain damage, and other disorders and developmental delays.² At an aggregate level, these toxin-induced symptoms increase criminality, lower education rates, and hurt employment prospects.³

Landlords already have a statutory obligation to minimize the risk of lead in homes. HB 49 would aid enforcement of current law by requiring landlords who utilize the courts to prove that they themselves come to court with clean hands, in this case a valid certificate of compliance from the Maryland Department of the Environment.

I urge the committee to give House Bill 49 a favorable report.

January 26, 2021

¹ See January 8, 2021 letter from Secretary Grumbles, uploaded alongside this testimony.

² Wes Moore and Mark Gunnery, "A Toxic Legacy: Confronting Lead Poisoning in Baltimore" *WYPR* Oct. 16, 2019. Accessed online at <https://www.wypr.org/post/toxic-legacy-confronting-lead-poisoning-baltimore>.

³ Kevin Drum, "Lead: America's Real Criminal Element" *Mother Jones* January/February 2013. Accessed online at <https://www.motherjones.com/environment/2016/02/lead-exposure-gasoline-crime-increase-children-health/>