

Testimony in Favor HB 523. Lead Paint Requirements.

Uploaded by: Losak, Matthew

Position: FAV



Matt Losak, Executive Director
1001 Spring Street
Silver Spring, Maryland 20910
In favor of HB 523
Senate Judicial Proceedings Committee
Tuesday, March 30, 2021

Good afternoon Chairman Smith and Vice-Chairman Waldstreicher and committee members. My name is Matt Losak and I am a co-founder and Executive Director of the Montgomery County Renters Alliance—an alliance of more than 30 labor, community, religious, political and civic action organizations and thousands of renters. We are Maryland's first and only regional nonprofit dedicated exclusively to renter outreach, education, organizing and advocacy.

Senators, there is no excuse for our courts to ignore lawbreaking landlords on one hand while enforcing lease provisions against tenants living in substandard conditions on the other hand. Laws that require licensure and code standards, including lead paint abatement and removal are basic measures to ensure safe habitable spaces for families to live. Yet some landlords ignored these requirements.

We support HB 523 to ensure that landlords demonstrate compliance with rental licensing and lead inspection laws as a prerequisite to filing a Failure to Pay Rent action against a tenant. We believe this is the best way to ensure compliance.

We also support amendments to ensure that this law applies uniformly across both counties and municipalities. Importantly, the bill also needs amendments to clarify the intent of the bill – that landlords should demonstrate a valid lead inspection certificate to the court, not just their Department of Environment registration.

We urge this Committee to put the teeth back into rental housing code and licensure enforcement. We support each of the Public Justice Center's recommended amendments and urge a favorable report.

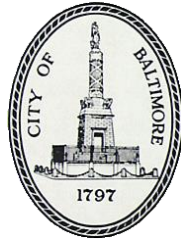
Thank you.

###

HB0523-JPR-FAV.pdf

Uploaded by: Mehu, Natasha

Position: FAV



BRANDON M. SCOTT
MAYOR

*Office of Government Relations
88 State Circle
Annapolis, Maryland 21401*

HB 523

March 30, 2021

TO: Members of the Senate Judicial Proceedings Committee

FROM: Natasha Mehu, Director of Government Relations

RE: HOUSE BILL 523 – Landlord and Tenant – Repossession for Failure to Pay Rent
– Registration and License Information

POSITION: SUPPORT

Chair Smith, Vice Chair Waldstreicher, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **supports** House Bill (HB) 523.

HB 523 would require a landlord to submit documents that prove they are in compliance with local license requirements and lead-based paint abatement laws, prior to filing a complaint in an action for repossession for failure to pay rent and using the resources of the District Court system and the Sheriff of Baltimore to evict a tenant.

In 2018, the Mayor and City Council of Baltimore enacted an ordinance¹ that required all rental properties to register with the City's Department of Housing and Community Development (HCD) beginning on January 1, 2019. The requirements are two-fold: (1) register with HCD via an online portal; and (2) be inspected by a Maryland-licensed, Baltimore City-registered home inspector. As of the beginning of February 2020, City HCD estimates that they have issued rental licenses for approximately 52%-55% of the current total estimated universe of current rental units in Baltimore City.

HB 523 would aid significantly in achieving two important operational goals: (1) preventing scofflaw landlords from abusing taxpayer funded government resources in the District Court and the Sheriff's office to evict tenants when they have not come into compliance with local laws expressly enacted to improve and monitor the health, safety and welfare of the tenants in the City

¹ See Baltimore City Ordinance 18-130 (2018).

of Baltimore; and (2) to shift the burden onto the landlord to affirmatively prove they are in compliance with these laws, rather than the existing burden shifting regime that alternates back and forth between landlord and tenant, which has the practical effect of imposing an additional burden on taxpayer resources when City HCD produces evidentiary information around these licenses at issue.

HB 523 provides a massive step forward in preventing landlords from abusing taxpayer funded government resources where they are flouting local laws designed to protect the very tenants they profit off of on a daily basis.

For these reasons, the BCA requests a **favorable** report on HB 523.

HB 523 Suport Letter_Crossover(2021)(FINAL).pdf

Uploaded by: Wilpone-Welborn, Kira

Position: FAV

BRIAN E. FROSH
Attorney General

ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General



WILLIAM D. GRUHN
Chief
Consumer Protection Division

Writer's Fax No.

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

Writer's Direct Dial No.
410-576-6986
kwilponewelborn@oag.state.md.us

March 26, 2021

To: The Honorable William C. Smith, Jr.
Chair, Judicial Procedures Committee

From: Kira Wilpone-Welborn
Consumer Protection Division

Re: House Bill 523 – Landlord and Tenant - Repossession for Failure to Pay Rent -
Registration and License Information (SUPPORT)

The Consumer Protection Division of the Office of the Attorney General (the "Division") supports House Bill 523, which requires landlords to submit documents to the District Court demonstrating compliance with local licensing and registration requirements at the time they file summary ejectment actions.

Landlord-tenant complaints are consistently among the top complaints received each year by the Division. A 2016 summer study that included landlords, tenant advocates, Maryland's courts, government officials, and others highlighted existing issues arising in rent court actions, including the subject matter of this bill. Several Maryland jurisdictions (Baltimore City, Anne Arundel County, and Prince George's County) require landlords to meet licensing and registration requirements before renting residential property. However, Maryland law does not currently require landlords who file summary ejectment actions against tenants in Maryland's courts to submit documentary evidence demonstrating compliance with local licensing and registration requirements. Instead, landlords need only certify on the District Court complaint form that they have complied with such requirements.

The Division has received complaints against landlords who lack a current rental license, yet erroneously certify they maintain the applicable license or registration when filing summary ejectment actions against tenants. Placing the burden on tenants to combat an erroneous certification at an expedited hearing without discovery is unfair to unsophisticated, and often unrepresented, tenants when landlords are in the best position to demonstrate compliance with a local jurisdictions' rental licensing and registration requirements. The Court of Appeals has found that a business, which is required to be licensed, may not use the courts to enforce a contract if

The Honorable William C. Smith, Jr.
House Bill 523
March 26, 2021
Page Two

they are not so licensed. *See, e.g., Golt v. Phillips*, 308 Md. 1, 12 (1986). House Bill 523 is consistent with this principle and a reasonable step toward ensuring landlords comply with local licensing and registration requirements and preventing Maryland landlords who fail to comply from pursuing collection and eviction actions against tenants in Maryland's courts.

Accordingly, the Division requests that the Judicial Proceedings Committee give House Bill 523 a favorable report.

cc: Members, Judicial Proceedings Committee

MMHA - 2021 - HB 523 - baltimore - rental license

Uploaded by: Greenfield, Aaron

Position: FWA



Bill Title: House Bill 523, Baltimore City – Repossession for Failure to Pay Rent – Registration and License Information

Committee: Judicial Proceedings Committee

Date: March 30, 2021

Position: Favorable with Amendment

This testimony is offered on behalf of the Maryland Multi-Housing Association (MMHA). MMHA is a professional trade association established in 1996, whose members consist of owners and managers of more than 210,000 rental housing homes in over 958 apartment communities. Our members house over 538,000 residents of the State of Maryland. MMHA also represents over 250 associate member companies who supply goods and services to the multi-housing industry including towing companies.

House Bill 523 requires a landlord at a failure to pay rent action to demonstrate to the District Court that the property is compliant with or exempt from local license requirements and lead-based paint abatement laws. . During trial, the landlord has the burden of proving by a preponderance of the evidence, that the property is in compliance with requirements of Article 13, § 5–4 of the Baltimore City Code and Title 6, Subtitle 8, Part iii of the Environment Article of the Annotated Code of Maryland.

MMHA supports House Bill 523. We are concerned about the effective date related to the lead registration requirement. At present, the Maryland Department of the Environment (MDE) maintains a Lead Rental Registry for “affected properties” – residential rentals built before 1978 (that are not limited lead free or lead free as designated by MDE). These registered rental properties must renew annually and this information is publicly accessible. In a failure to pay rent proceeding and with the burden of proof, a provider could demonstrate that they have an affected property, it is certified and the judge can confirm. There are also “non-affected properties.” These are residential rental properties built after 1977 and properties that have a passing Lead Free or limited lead-free inspection certificate. “Non-affected” properties are exempt from the Lead Rental Registry. There is no way for the District Court to validate that a rental is a “non-affected property.” The Lead Rental Certification and Accreditation platform is expected to maintain both “affected” and “non-affected” properties and come online in the Fall of 2021. In the event that this database is delayed, House Bill 523 will create complications in failure to pay rent proceedings.

MMHA urges the Committee consider an effective date of January 31, 2022, *contingent on the accessibility by the public of the Lead Registration Compliance and Accreditation database of the Maryland Department of the Environment.*



For the foregoing reasons, MMHA respectfully requests a **favorable report with amendment on House Bill 523.**

Aaron J. Greenfield, MMHA Director of Government Affairs, 410.446.1992

GHHI Written Testimony - HB523 - Senate JPR 3-26-2

Uploaded by: Norton, Ruth Ann

Position: FWA



2714 Hudson Street
Baltimore, MD 21224-4716
P: 410-534-6447
F: 410-534-6475
www.ghhi.org

March 26, 2021

Senator William C. Smith, Jr., Chairman
Senate Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

Re: **SUPPORT WITH AMENDMENTS - HB523 – LANDLORD AND TENANT -
REPOSSESSION FOR FAILURE TO PAY RENT – REGISTRATION AND LICENSE
INFORMATION**

Dear Chairman Smith and Members of the Committee:

The Green & Healthy Homes Initiative (GHHI) writes to support with amendments HB523. GHHI is the nation's largest healthy homes organization and is dedicated to addressing the social determinants of health and advancing racial and health equity through the creation of healthy, safe, and energy efficient homes. By delivering a standard of excellence, GHHI aims to eradicate the negative health impacts of unhealthy housing and unjust policies for children, seniors, and families to ensure better health, economic, and social outcomes with an emphasis on black and brown and low-income communities. GHHI has been at the frontline of lead poisoning prevention and healthy housing for over three decades.

GHHI developed the holistic energy efficiency, health and housing service delivery model that is implemented in our nationally recognized, Maryland-based direct service program as well in over 25 partner jurisdictions nationwide and whose model was adopted by the U.S. Department of Housing and Urban Development. In addition, GHHI helped to elevate Maryland as a national leader in healthy housing by helping reduce childhood lead poisoning by 99% in the state. GHHI provides multiple direct services in Maryland including legal representation of tenants in District Court rent court for the repair of lead and other home-based environmental health hazards and compliance assistance for rental property owners across the state.

In 2004, HB1245 – The Clean Hands Bill was passed to require that rental property owners who were collecting rent through the Failure to Pay Rent Complaint process in District Court had to demonstrate that they were in compliance with Maryland's rental registration and lead inspection certification requirements. The law was passed to improve compliance rates of affected rental properties following a University of Maryland Law School report that analyzed 1,000 pre-1950, occupied rental properties that were the subject of current Failure to Pay Rent Complaints in Baltimore City District Court and found that **77%** were not in compliance with the state's Maryland Reduction of Lead Risk in Housing Law. That law has been effective in helping improve

compliance rates, but there are still non-compliant owners that are utilizing the District Court to collect rent for properties in Baltimore City and other jurisdictions that are unlicensed and have no lead risk reduction certification.

Compliance Problem That Needs to be Addressed

In order to improve the law's effectiveness at increasing registration and lead inspection certification compliance rates of affected properties with the Maryland Reduction of Lead Risk in Housing Law and to insure that rental property owners are proactive and obtain a lead certificate as well as a license as required prior to a tenant's occupancy, we need to strengthen the District Court's role in helping to make sure that rental property owners who use the state funded and sanctioned Failure to Pay Rent court process are legally renting their properties. During GHHI's years of legal representation of tenants in District Court in Baltimore City and across the state, it is not uncommon to represent tenants who reside in affected properties and are facing District Court eviction proceedings but:

- The affected property lacks a valid lead inspection certificate and/or is not annually registered.
- The Failure to Pay Rent Complaint has been filed without a lead inspection certificate number listed or the number provided is an invalid, expired or a fraudulent certificate number and there is no recourse for tenants to raise the issue at trial as the current law is written.
- The property is not licensed with the local jurisdiction.
- The District Court judge is unsure whether they can and should dismiss Complaints where the inspection certification line on the Complaint is blank.
- The District Court judge states that they cannot hear evidence on the property's lack of registration or inspection certification compliance due to the current language in Real Property Article Section 8-401.

Solution the Bill Provides

HB523 fixes the problems described by:

1. Giving District Court judges the ability to review evidence on the registration and inspection compliance of the rental property and in meeting the requirements of Real Property Article 8-401.
2. Providing clear direction to District Court judges that they have the authority to dismiss Failure to Pay Rent Complaints where landlords cannot show compliance and/or after the case has been postponed.
3. Requiring that owners provide compliance documentation to the Court.

Requested Amendment

GHHI supports HB523 and request the following corrections to the Bill to clarify that the rental property owner must provide the lead risk reduction inspection certificate documentation in addition to the registration documentation to the Court. On page 4, lines 1-3, amend to:

**“2. IN COMPLIANCE WITH ALL REGISTRATION AND INSPECTION
CERTIFICATION REQUIREMENTS UNDER TITLE 6, SUBTITLE 8, PART III AND
PART IV OF THE ENVIRONMENT ARTICLE.”**

On page 8, lines 17-18, amend to:

**“...13, §5-4 OF THE BALTIMORE CITY CODE AND TITLE 6, SUBTITLE 8, PART III
AND IV OF THE ANNOTATED CODE OF MARYLAND. A...”**

HB523 helps address this problem by providing a requirement that in District Court Failure to Pay Rent actions under Real Property Article 8-401, rental property owners must demonstrate their compliance with the state lead law requirements and that they are properly licensed as required by the local jurisdiction. We support HB523 to promote lead safer housing for tenants.

Note: While it has been argued in opposition in the past that allowing evidence to be presented on compliance will cause substantial delays in the daily rent court docket, it has not been the actual experience or practice that compliance determinations require a lengthy process for the judge to resolve nor has it delayed the courts in any measurable way.

The Maryland Reduction of Lead Risk in Housing Law has helped produce a 99% decline in childhood lead poisoning, but there remain numerous non-compliant properties that contain serious lead hazards. Further, various research studies have shown that non-compliant landlords who failed to meet Maryland’s registration and lead risk reduction measures and inspection were still able to prevail in District Court Failure to Pay Rent Complaint hearings. Rental property owners who are not responsible in maintaining proper MDE registration and valid lead inspection certificates for affected properties should not be allowed to use our courts.

HB523 would strengthen the rent court process so that it is fair to all parties and does not require that tenants, who are typically pro se, have legal representation in District Court in order to expect that their rental home will be licensed and inspected to meet local licensing and Maryland’s lead law requirements. We request a favorable with amendments report on HB523.

Respectfully Yours,



Ruth Ann Norton
President and CEO

HB523_MDCEP_FWA.pdf

Uploaded by: Schumitz, Kali

Position: FWA

Landlords Should Be Required to Uphold Housing Standards Before Evicting Tenants

Position Statement Supporting House Bill 523 with Amendments

Given before the Judiciary Committee

House Bill 523 ensures that District Court rent dockets provide no safe harbor for landlords who fail to comply with the local rental licensing laws and the registration requirements of the Maryland Reduction of Lead Risk in Housing law. This bill, as amended and passed in the House, would require landlords to demonstrate that their rental units are licensed, where licensing laws apply, both at the time of filing an eviction action for Failure to Pay Rent and at the time of trial. **The Maryland Center on Economic Policy supports House Bill 523 with amendments because due to drafting oversights, the bill language inadvertently excludes municipal (as opposed to county) rental licenses. It also falls short of requiring any demonstration of a valid lead inspection certificate.**

To effectively bar law-breaking rental operators from the court's eviction process, HB 523 should include technical amendments that (1) capture both county *and* municipal rental licenses and (2) expressly require that landlords demonstrate their valid lead inspection certificates at trial.

- Amendment 1
 - Ensures that the municipal rental licensing is covered by this bill. The current language references county license requirements (page 3, line 33). However, there are municipalities such as Annapolis and College Park that have enacted rental license ordinances apart from their respective counties' laws.
- Amendment 2
 - Ensures that the landlord's burden of proof as to lead risk compliance includes both the MDE registration and the lead inspection certificate. This is accomplished by changing the reference to "all registration requirements under Title 6, Subtitle 8, Part III of the Environment Article" (page 4, lines 1-3). Part III, as referenced, requires annual registration, without inspection for compliance with the applicable lead risk standard. Part IV of that section of the code specifies the lead inspection requirements and the certificate process for affected properties. Further below in the bill, in the section describing the landlord's burden at trial, the reference to "subsection (b)(2)(i)1" (regarding rental licenses) must be changed to "subsection (b)(2)(i)" so that the burden is inclusive of both the valid rental license and valid lead inspection certificate.
- Amendment 3
 - Is a conforming amendment to ensure that the changes to the Real Property article are incorporated into Baltimore City public local law.

Given that HB 523 was heavily amended to adopt provisions from two other House bills (HB 524, HB 49), it is likely that important language was incidentally left out. HB 523 initially was intended to require evidence of compliance with any applicable rental license law, as well as evidence of a valid lead inspection certificate. Ensuring that this is included in the bill is essential as a recent report showed that landlords routinely use the “Rent Court” process even as they are violating local and state laws by leasing units without having passed inspections and obtained valid rental licenses or lead inspection certificates.ⁱ

HB 523, with further amendment, will stop rogue landlords from taking advantage of Rent Court and collecting rent illegally under threat of eviction. **For these reasons, the Maryland Center on Economic Policy respectfully requests the Judicial Proceedings Committee to make a favorable report with recommended amendments on House Bill 523.**

Equity Impact Analysis: House Bill 523

Bill Summary

This bill, as amended and passed in the House, would require landlords to demonstrate that their rental units are licensed, where licensing laws apply, both at the time of filing an eviction action for Failure to Pay Rent and at the time of trial

Background

HB 523 ensures that District Court rent dockets provide no safe harbor for landlords who fail to comply with the local rental licensing laws and the registration requirements of the Maryland Reduction of Lead Risk in Housing law.

As amended and passed by the House, HB 523 would create the following changes to the existing summary ejection procedure:

- At time of filing “Failure to Pay Rent” complaint: The Landlord would present a copy of their rental license and MDE Registration.
- At trial: The Landlord would present only the rental license.
- In neither the filing nor the trial stages would landlords have to present a valid Inspection Certificate (MDE Form 330) to show the property’s current lead risk reduction compliance.

To effectively bar law-breaking rental operators from the court’s eviction process, HB 523 should include technical amendments that (1) capture both county *and* municipal rental licenses and (2) expressly require that landlords demonstrate their valid lead inspection certificates at trial.

Equity Implications

This success rate for law-breaking landlords provides financial incentive to continue operating in violation of local and state laws meant to protect consumers and public safety. Looking at this phenomenon across the state, Maryland Legal Aid found in a 2016 report that in over 21,000 eviction cases that resulted in default judgments for repossession, the landlord failed to provide any rental licensing information on the court complaint despite not

having an exemption from licensing.ⁱⁱ Evictions cause poverty, drive homelessness, job loss, deteriorating health, poor education outcomes, poor credit scores, loss of assets, and increase the risk of children being placed into foster care. At least 23% of homelessness is caused by eviction.

Impact

House Bill 523 would likely **improve racial and economic equity in Maryland.**

ⁱ Public Justice Center, *Justice Diverted: How Renters Are Processed in the Baltimore City Rent Court* 24-25 (2015), http://www.publicjustice.org/wp-content/uploads/2019/09/JUSTICE_DIVERTED_PJC_DEC15.pdf

ⁱⁱ Maryland Legal Aid, *Human Rights in Maryland's Rent Court: A Statistical Study* 24 (2016), https://www.mdlab.org/wp-content/uploads/MDLegalAid_RentCourtStudy_Release-Date-9-8-16.pdf

Public Justice Center - HB523 JPR - FWA.pdf

Uploaded by: Shah, Zafar

Position: FWA



Zafar Shah Attorney
Public Justice Center
201 North Charles Street, Suite 1200
Baltimore, Maryland 21201
410-625-9409, ext. 237
shahz@publicjustice.org

HB 523 - Landlord and Tenant - Repossession for Failure to Pay Rent - Registration and License Information

Hearing before the Senate Judicial Proceedings Committee, March 30, 2021

Position: SUPPORT WITH AMENDMENTS

HB 523 ensures that District Court rent dockets provide no safe harbor for landlords who fail to comply with the local rental licensing laws and the registration requirements of the Maryland Reduction of Lead Risk in Housing law. This bill, as amended and passed in the House, would require landlords to demonstrate that their rental units are licensed, where licensing laws apply, both at the time of filing an eviction action for Failure to Pay Rent and at the time of trial.

However, due to drafting oversights, the bill language inadvertently excludes municipal (as opposed to county) rental licenses. It also falls short of requiring any demonstration of a valid lead inspection certificate.

To effectively bar law-breaking rental operators from the court's eviction process, HB 523 should include **technical amendments** that (1) capture both county *and* municipal rental licenses and (2) expressly require that landlords demonstrate their valid lead inspection certificates at trial.

Public Justice Center's [2015 study *Justice Diverted*](http://www.publicjustice.org/wp-content/uploads/2019/09/JUSTICE_DIVERTED_PJC_DEC15.pdf) showed that landlords easily and routinely use the "Rent Court" process even as they are violating local and state laws by leasing units without having passed inspections and obtained valid rental licenses or lead inspection certificates. In Public Justice Center's study of over 100 contested eviction actions in Baltimore City, over 70 percent of landlords had either omitted rental licensing information from the complaint or provided the court invalid information while **79%** of landlords in study failed to provide valid lead compliance information.¹ And still, over 60 percent of non-compliant landlords won judgments

¹ Public Justice Center, *Justice Diverted: How Renters Are Processed in the Baltimore City Rent Court* 24-25 (2015), http://www.publicjustice.org/wp-content/uploads/2019/09/JUSTICE_DIVERTED_PJC_DEC15.pdf

for eviction. This success rate for law-breaking landlords provides financial incentive to continue operating in violation of local and state laws meant to protect consumers and public safety. Looking at this phenomenon across the state, Maryland Legal Aid found in [a 2016 report](#) that in over 21,000 eviction cases that resulted in default judgments for repossession, the landlord failed to provide any rental licensing information on the court complaint despite not having an exemption from licensing.²

HB 523, with further amendment, will stop rogue landlords from taking advantage of Rent Court and collecting rent illegally under threat of eviction.

In 2004 the General Assembly enacted a “Clean Hands” law requiring all landlords to disclose compliance with the Lead Law in order to file an eviction case in Rent Court. In 2011, the Court of Appeals found that a landlord’s claim in Rent Court is conditioned on the property’s compliance with any applicable rental license.³ Consequently, landlords must state statement compliance with license and lead inspection requirements in paragraphs 2 and 3 of the “Failure to Pay Rent” complaint form. HB 523 does not change the existing requirements by which landlords must state a rental license number, Department of Environment registration number, and lead inspection certificate number. HB 523 is the necessary step to ensure that those averred numbers are legitimate and valid. HB 523 puts the burden on landlords to show valid documentation that supports the averments already required by law. This bill clarifies after years of confusion in the courts that that it is neither the judge nor the tenant who should carry the burden of identifying unlicensed properties or those that failed a lead risk inspection.

Fix HB 523 to ensure the strongest disincentive against illegal rental operations

As amended and passed by the House, HB 523 would create the following changes to the existing summary ejectment procedure:

- At time of filing “Failure to Pay Rent” complaint: The Landlord would present a copy of their rental license and MDE Registration.
- At trial: The Landlord would present only the rental license.
- In neither the filing nor the trial stages would landlords have to present a valid Inspection Certificate (MDE Form 330) to show the property’s current lead risk reduction compliance.

Based on descriptions of HB 523 made by members of the House Judiciary and the House Environment and Transportation committees, we believe that HB 523 is intended to require evidence of compliance with any applicable rental license law, as well as evidence of a valid lead

² Maryland Legal Aid, *Human Rights in Maryland’s Rent Court: A Statistical Study* 24 (2016), https://www.mdlab.org/wp-content/uploads/MDLegalAid_RentCourtStudy_Release-Date-9-8-16.pdf

³ *McDaniel v. Baranowski*, 419 Md. 560, 585 (2011)

The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.

inspection certificate. Given that HB 523 was heavily amended to adopt provisions from two other House bills (HB 524, HB 49), it is likely that important language was incidentally left on the cutting room floor. Public Justice Center proposes 3 amendments (attached) to ensure that the intent of the bill is clear and that implementation of the bill is not wracked by ambiguous language.

Amendment 1 ensures that the municipal rental licensing is covered by this bill. The current language references county license requirements (page 3, line 33). However, there are municipalities such as Annapolis and College Park that have enacted rental license ordinances apart from their respective counties' laws.

Amendment 2 ensures that the landlord's burden of proof as to lead risk compliance includes both the MDE registration *and* the lead inspection certificate. This is accomplished by changing the reference to "all registration requirements under Title 6, Subtitle 8, Part III of the Environment Article" (page 4, lines 1-3). Part III, as referenced, requires annual registration, without inspection for compliance with the applicable lead risk standard. Part IV of that section of the code specifies the lead inspection requirements and the certificate process for affected properties. Further below in the bill, in the section describing the landlord's burden at trial, the reference to "subsection (b)(2)(i)1" (regarding rental licenses) must be changed to "subsection (b)(2)(i)" so that the burden is inclusive of both the valid rental license and valid lead inspection certificate.

Amendment 3 is a conforming amendment to ensure that the changes to the Real Property article are incorporated into Baltimore City public local law.

HB 523 strengthens the public safety objectives that legislature had in mind when they created the Lead Risk in Housing law and city/county rental license laws. This bill changes the district courts' role from passive bystander to illegal rental operations. Instead, the court process will spotlight illegal activities. It is imperative to deter bad actors who seek special recourse through the courts and to create a meaningful incentive for landlords to comply with laws that protect the public from defective properties.

Please issue a report of FAVORABLE WITH AMENDMENTS on HB 523. If you have any questions, please contact Zafar Shah, shahz@publicjustice.org, (410) 625-9409 Ext. 237.

MDE Lead Registration vs. Risk Reduction Inspection Certificate

The Inspection Certificate shows compliance with lead safety standards.

MDE Registration does not.

MDE Lead Registration (Environment Art. Title 6, Subtitle 8, Part III)



- Registration is an annual requirement for rental properties built before 1978 (unless property is exempted).
- Registration is not based on any inspection of the property. Property owners pay a fee each year to renew registration.
- To show “Registration requirements under Title 6, Subtitle 8, Part III” of Env. Art., one would submit an invoice for the registration payment or print-out from MDE’s online lead registry – neither of which indicate whether the property complies with lead risk reduction standards.

Lead Inspection Certificate (Environment Art. Title 6, Subtitle 8, Part IV)



- Inspection Certificates (MDE Form 330) state the type of inspection conducted (Full Risk, Modified Risk, Limited Lead Free, Lead Free), whether the property passed/failed, and the date of the inspection.
- Full Risk and Modified Risk inspections are triggered by tenancy-related events: change in occupancy (Full Risk), notice of defect (Modified Risk).
- An Inspection Certificate has a unique 6-digit number – this is distinct for the Tracking ID included in a Registration.
- Sampling of eviction cases in 2005 and 2014 showed that over 70% of cases involved missing or outdated Inspection Certificates information.

By amendment, HB 523 should include language that requires landlords to show the valid Inspection Certificate at filing and at trial.

PROPOSED AMENDMENTS TO HB 523

(Page/line numbers reference third reader of the House bill)

AMENDMENT 1

Page 3, lines 33-34, strike “with the county” and after “requirements” insert “of the local jurisdiction”.

Amendment 1 ensures that the municipal rental licensing is covered by this bill. The current language references county license requirements (page 3, line 33). However, there are municipalities such as Annapolis and College Park that have enacted rental license ordinances apart from their respective counties’ laws.

AMENDMENT 2

Page 4, lines 1-2, after “registration” insert “and inspection certificate,” and after “Part III” insert “and Part IV”;

Page 6, line 8, strike “(b)(2)(i)1” and substitute “(b)(2)(i)”;

Page 6, line 13, strike “copy of the license” and substitute “document”.

Amendment 2 ensures that the landlord’s burden of proof as to lead risk compliance includes both the MDE registration *and* the lead inspection certificate. This is accomplished by changing the reference to “all registration requirements under Title 6, Subtitle 8, Part III of the Environment Article” (page 4, lines 1-3). Part III, as referenced, requires annual registration, without inspection for compliance with the applicable lead risk standard. Part IV of that section of the code specifies the lead inspection requirements and the certificate process for affected properties.

Further below in the bill, in the section describing the landlord’s burden at trial, the reference to “subsection (b)(2)(i)1” (regarding rental licenses) must be changed to “subsection (b)(2)(i)” so that the burden is inclusive of both the valid rental license and valid lead inspection certificate. Additionally, the provision allowing electronic evidence should be changed to cover both licenses and inspection certificates.

AMENDMENT 3

Page 8, line 17, after “Part III” insert “and Part IV”;

Page 8, line 42, after “City Code” insert “and Title 6, Subtitle 8, Part III and Part IV of the Environment Article of the Annotated Code of Maryland”;

Page 9, line 1, after “copy of the license” insert a comma and “registration, or lead inspection certificate”;

The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.

Page 9, line 4, after “City Code” insert “and Title 6, Subtitle 8, Part III and Part IV of the Environment Article of the Annotated Code of Maryland”.

Amendment 3 is a conforming amendment to ensure that the changes to the Real Property article are incorporated into Baltimore City public local law.

CrossoverHB523_MCRC_FWA.pdf

Uploaded by: Stern, Isadora

Position: FWA



Maryland Consumer Rights Coalition

Testimony to the Senate Judicial Proceedings Committee
HB523: Baltimore City - Repossession for Failure to Pay Rent - Registration and License
Information
Position: Favorable with Amendment

March 30, 2021

The Honorable William Smith Jr., Chair
Senate Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, Maryland 21401
cc: Members, Judicial Proceedings Committee

Chair Smith and Members of the Committee:

The Maryland Consumer Rights Coalition (MCRC) is a statewide coalition of individuals and organizations that advances financial justice and economic inclusion for Maryland consumers through research, education, direct service, and advocacy. Our 8,500 supporters include consumer advocates, practitioners, and low-income and working families throughout Maryland. In 2019, the Fair Housing Action Center of Maryland became a program of MCRC.

HB523 is a bill that addresses one of Baltimore City's most troubling issues -- the number of substandard rental properties in our city, and the predatory landlords who profit. This bill, as amended and passed in the House, would require landlords to demonstrate that their rental units are licensed, where licensing laws apply, both at the time of filing an eviction action for Failure to Pay Rent and at the time of trial.

However, the bill language inadvertently excludes municipal (as opposed to county) rental licenses. It also falls short of requiring any demonstration of a valid lead inspection certificate.

To effectively bar law-breaking rental operators from the court's eviction process, HB 523 should include technical amendments that (1) capture both county and municipal rental licenses and (2) expressly require that landlords demonstrate their valid lead inspection certificates at trial.

For more than 50 years, Baltimore City has been plagued with a dearth of substandard rental



Maryland Consumer Rights Coalition

properties, to the detriment of tenants and their families, and also City taxpayers. These properties contribute to the low overall quality of life in Baltimore, and illustrate the deep power imbalance in the relationship between tenants and landlords. In no other relationship would a seller, or in this case, a lessor be allowed to bring a product to market with such low standards of care. Since landlords know they have the upper hand in the relationship, and the licensing law is not consistently enforced, there's no incentive to make repairs in a timely manner, or at all.

The Fair Housing Action Center of Maryland received 231 complaints in 2020 from Baltimore City tenants, 34% of which were related to substandard housing or denial of essential services (no heat, water, electricity, etc.) Also of the 231 complaints we received, 40% of those properties were unlicensed. It's also important to note that the majority of these unlicensed properties, or properties that should be considered uninhabitable, are occupied by Black women with children -- continuing Baltimore's racist history of slum housing. It's long past the time for our legislature to put a stop to this shameful history.

No doubt you will hear from "Mom and Pop" landlords who claim they don't have the money to make repairs or hire an inspector at their own expense. The only appropriate response to this claim is twofold: Owning and operating rental property is a business, period. As such, a business owner has a duty of care, and a responsibility to follow the law. If the business owner cannot follow these two basic rules, they should not be allowed to profit from their cruel and intentional negligence. Also, the mythical "Mom and Pop" landlords are not in the majority when we're discussing substandard rental housing. Many of these properties are owned by an LLC, a trust, or other corporate/company structure -- one individual in Baltimore City controls hundreds of properties under individual LLCs and trusts -- hardly fitting the image of the "small property owner" we hear so much about and are expected to somehow pity, as their tenants live in squalor. Also, many of these properties are managed by "professional" property management companies who will no doubt be upset about having to follow the law, and large out of state real estate investment trusts (REITs) that will of course also be upset by being told they have to respect the laws and ordinances enacted by our City Council.

You have a wonderful opportunity right now -- the opportunity to send a clear and strong message to the predatory landlords that profit from our city's substandard and dangerous housing. You have the opportunity to also send a message to our city's thousands of tenants -- tell them they matter, they're important, and their families are your number one priority.

HB 523, with further amendment, will stop rogue landlords from taking advantage of Rent Court



Maryland Consumer Rights Coalition

and collecting rent illegally under threat of eviction.

Amendment 1 ensures that the municipal rental licensing is covered by this bill. The current language references county license requirements (page 3, line 33). However, there are municipalities such as Annapolis and College Park that have enacted rental license ordinances apart from their respective counties' laws.

Amendment 2 ensures that the landlord's burden of proof as to lead risk compliance includes both the MDE registration and the lead inspection certificate. This is accomplished by changing the reference to "all registration requirements under Title 6, Subtitle 8, Part III of the Environment Article" (page 4, lines 1-3). Part III, as referenced, requires annual registration, without inspection for compliance with the applicable lead risk standard. Part IV of that section of the code specifies the lead inspection requirements and the certificate process for affected properties. Further below in the bill, in the section describing the landlord's burden at trial, the reference to "subsection (b)(2)(i)1" (regarding rental licenses) must be changed to "subsection (b)(2)(i)" so that the burden is inclusive of both the valid rental license and valid lead inspection certificate.

Amendment 3 is a conforming amendment to ensure that the changes to the Real Property article are incorporated into Baltimore City public local law.

With these amendments, HB 523 will ensure the strongest disincentive against illegal rental operations.

For all these reasons, we support HB523 and urge a favorable report with additional amendments.

Best,

Carol Ott
Tenant Advocacy Director
Fair Housing Action Center of Maryland

GHHI Written Testimony - HB523 - Senate JPR 3-26-2

Uploaded by: Stewart, Wesley

Position: FWA



2714 Hudson Street
Baltimore, MD 21224-4716
P: 410-534-6447
F: 410-534-6475
www.ghhi.org

March 26, 2021

Senator William C. Smith, Jr., Chairman
Senate Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

Re: **SUPPORT WITH AMENDMENTS - HB523 – LANDLORD AND TENANT -
REPOSSESSION FOR FAILURE TO PAY RENT – REGISTRATION AND LICENSE
INFORMATION**

Dear Chairman Smith and Members of the Committee:

The Green & Healthy Homes Initiative (GHHI) writes to support with amendments HB523. GHHI is the nation's largest healthy homes organization and is dedicated to addressing the social determinants of health and advancing racial and health equity through the creation of healthy, safe, and energy efficient homes. By delivering a standard of excellence, GHHI aims to eradicate the negative health impacts of unhealthy housing and unjust policies for children, seniors, and families to ensure better health, economic, and social outcomes with an emphasis on black and brown and low-income communities. GHHI has been at the frontline of lead poisoning prevention and healthy housing for over three decades.

GHHI developed the holistic energy efficiency, health and housing service delivery model that is implemented in our nationally recognized, Maryland-based direct service program as well in over 25 partner jurisdictions nationwide and whose model was adopted by the U.S. Department of Housing and Urban Development. In addition, GHHI helped to elevate Maryland as a national leader in healthy housing by helping reduce childhood lead poisoning by 99% in the state. GHHI provides multiple direct services in Maryland including legal representation of tenants in District Court rent court for the repair of lead and other home-based environmental health hazards and compliance assistance for rental property owners across the state.

In 2004, HB1245 – The Clean Hands Bill was passed to require that rental property owners who were collecting rent through the Failure to Pay Rent Complaint process in District Court had to demonstrate that they were in compliance with Maryland's rental registration and lead inspection certification requirements. The law was passed to improve compliance rates of affected rental properties following a University of Maryland Law School report that analyzed 1,000 pre-1950, occupied rental properties that were the subject of current Failure to Pay Rent Complaints in Baltimore City District Court and found that **77%** were not in compliance with the state's Maryland Reduction of Lead Risk in Housing Law. That law has been effective in helping improve

compliance rates, but there are still non-compliant owners that are utilizing the District Court to collect rent for properties in Baltimore City and other jurisdictions that are unlicensed and have no lead risk reduction certification.

Compliance Problem That Needs to be Addressed

In order to improve the law's effectiveness at increasing registration and lead inspection certification compliance rates of affected properties with the Maryland Reduction of Lead Risk in Housing Law and to insure that rental property owners are proactive and obtain a lead certificate as well as a license as required prior to a tenant's occupancy, we need to strengthen the District Court's role in helping to make sure that rental property owners who use the state funded and sanctioned Failure to Pay Rent court process are legally renting their properties. During GHHI's years of legal representation of tenants in District Court in Baltimore City and across the state, it is not uncommon to represent tenants who reside in affected properties and are facing District Court eviction proceedings but:

- The affected property lacks a valid lead inspection certificate and/or is not annually registered.
- The Failure to Pay Rent Complaint has been filed without a lead inspection certificate number listed or the number provided is an invalid, expired or a fraudulent certificate number and there is no recourse for tenants to raise the issue at trial as the current law is written.
- The property is not licensed with the local jurisdiction.
- The District Court judge is unsure whether they can and should dismiss Complaints where the inspection certification line on the Complaint is blank.
- The District Court judge states that they cannot hear evidence on the property's lack of registration or inspection certification compliance due to the current language in Real Property Article Section 8-401.

Solution the Bill Provides

HB523 fixes the problems described by:

1. Giving District Court judges the ability to review evidence on the registration and inspection compliance of the rental property and in meeting the requirements of Real Property Article 8-401.
2. Providing clear direction to District Court judges that they have the authority to dismiss Failure to Pay Rent Complaints where landlords cannot show compliance and/or after the case has been postponed.
3. Requiring that owners provide compliance documentation to the Court.

Requested Amendment

GHHI supports HB523 and request the following corrections to the Bill to clarify that the rental property owner must provide the lead risk reduction inspection certificate documentation in addition to the registration documentation to the Court. On page 4, lines 1-3, amend to:

**“2. IN COMPLIANCE WITH ALL REGISTRATION AND INSPECTION
CERTIFICATION REQUIREMENTS UNDER TITLE 6, SUBTITLE 8, PART III AND
PART IV OF THE ENVIRONMENT ARTICLE.”**

On page 8, lines 17-18, amend to:

**“...13, §5-4 OF THE BALTIMORE CITY CODE AND TITLE 6, SUBTITLE 8, PART III
AND IV OF THE ANNOTATED CODE OF MARYLAND. A...”**

HB523 helps address this problem by providing a requirement that in District Court Failure to Pay Rent actions under Real Property Article 8-401, rental property owners must demonstrate their compliance with the state lead law requirements and that they are properly licensed as required by the local jurisdiction. We support HB523 to promote lead safer housing for tenants.

Note: While it has been argued in opposition in the past that allowing evidence to be presented on compliance will cause substantial delays in the daily rent court docket, it has not been the actual experience or practice that compliance determinations require a lengthy process for the judge to resolve nor has it delayed the courts in any measurable way.

The Maryland Reduction of Lead Risk in Housing Law has helped produce a 99% decline in childhood lead poisoning, but there remain numerous non-compliant properties that contain serious lead hazards. Further, various research studies have shown that non-compliant landlords who failed to meet Maryland’s registration and lead risk reduction measures and inspection were still able to prevail in District Court Failure to Pay Rent Complaint hearings. Rental property owners who are not responsible in maintaining proper MDE registration and valid lead inspection certificates for affected properties should not be allowed to use our courts.

HB523 would strengthen the rent court process so that it is fair to all parties and does not require that tenants, who are typically pro se, have legal representation in District Court in order to expect that their rental home will be licensed and inspected to meet local licensing and Maryland’s lead law requirements. We request a favorable with amendments report on HB523.

Respectfully Yours,



Ruth Ann Norton
President and CEO

MBIA Testimony HB 523.pdf

Uploaded by: Graf, Lori

Position: UNF

March 30, 2021

The Honorable William C. Smith Jr.
Senate Judicial Proceedings Committee
Miller Senate Office Building,
2 East Wing 11 Bladen St.,
Annapolis, MD, 21401

RE: HB 523 Landlord and Tenant – Repossession for Failure to Pay Rent – Registration and License Information

Dear Chairman Smith:

The Maryland Building Industry Association, representing 1,100 member firms statewide, appreciates the opportunity to participate in the discussion surrounding **HB 523 Landlord and Tenant – Repossession for Failure to Pay Rent – Registration and License Information**. MBIA Opposes the Act in its current version.

This bill would require a landlord to file a written complaint in the district court of the property showing that the property is in good standing and that the tenant has refused to vacate the premises at the landlords direction. MBIA respectfully opposes this measure. The requirement that official papers be drawn up, submitted and reviewed by a district court would create a huge expense for landlords which would be passed onto tenants. During the period of review landlords will be stuck for months with tenants that are refusing to pay rent. The five-day period for review is unrealistic and in order to meet that deadline the individual districts will have to meet significant additional expenses in personnel. This additional risk must be factored into rental pricing for new tenants driving the costs of rental properties up and pricing poorer tenants out of the market.

Additionally, this measure would force landlords to keep tenants that were consistently derelict on rent if they can meet the back charges ordered by the courts. Landlord rely on consistent income in order to meet their home ownership responsibilities and this measure would give tenants an additional mechanism to evade payments and potentially saddle the landlord with unreliable payments on rent.

For these reasons, MBIA respectfully requests the Committee give this measure an unfavorable report. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: Members of the Senate Judicial Proceedings Committee