



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

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## HB0881 - Landlord and Tenant - Residential Leases and Holdover Tenancies - Local Just Cause Termination Provisions

Hearing before the House Environment and Transportation Committee,  
Feb. 22, 2022

Position: SUPPORT (FAV)

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The Public Justice Center is a not-for-profit, civil legal aid organization that serves over 600 renters each year throughout Maryland. Many of our clients know firsthand the indignity of facing eviction for no fault of their own. Under current state law, landlords may utilize the “Tenant Holding Over” (THO) eviction action in District Court, under Real Property § 8-402, after expiration of the lease. This statewide statute does not require a landlord to demonstrate any reason for the decision to terminate or non-renew the lease. They need only deliver a 60-day notice, without explanation. This style of eviction doubled in prevalence during the COVID-19 pandemic as it offered a swift procedure to get around “moratorium” protections, rental assistance, and scheduling delays for non-payment eviction cases.

HB0881 is enabling legislation that would give clear legislating power to Maryland counties to establish “just cause” or “good cause” limitations on lease non-renewals. This bill expressly grants authority to local legislatures to decide when it is appropriate for rental agreements to be non-renewed. That means local policymakers would be able to determine the kind of “just cause” policy their locality needs, whether by type of building, for certain populations, or under certain circumstances such as a state of emergency. Without HB0881, local efforts are stymied by legal concerns around preemption. We urge the Committee to move HB0881 favorably so that local government can act with clear authority on this issue.

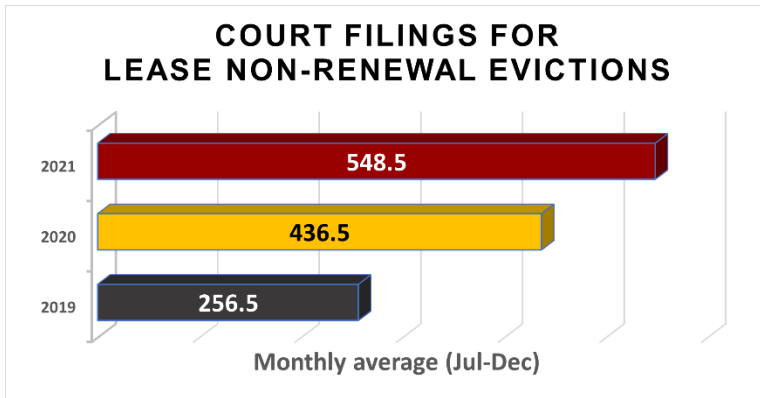
**Public Justice Center urges the Committee to move HB0881 favorably.** Arbitrary lease terminations destabilize the lives of working people, their children, and their communities. Still amid a once-in-100-years pandemic and an uneven economic recovery, Maryland counties should have every possible tool to stabilize rental housing. **Wherever local policymakers wish to retain their renting residents, who are doing their best to live by the rules, HB0881 would clear away preemption concerns and allow those jurisdictions to enact enforceable protections.**

### *What is “just cause” policy?*

When it comes to lease non-renewals, Maryland is currently a “no cause” state – that is, a landlord can decide to non-renew without any stated cause. This means that working people and their children face

the constant threat of displacement, even when they follow all the rules. They are under constant pressure to accept declining conditions and increasing rents just to stay in their communities.

HB0881 enables Maryland counties to pass local "just cause" laws that limit lease non-renewals. "Just cause" means that a landlord may choose not to renew an expiring lease only if there is an acceptable basis for that decision. HB0881 defines "just cause," including an inclusive but non-exhaustive list of acceptable bases – such as substantial lease violations, illegal activities, removal of the property from the market, or personal use of the property by the owner. HB0881's list reflects the policies other U.S. jurisdictions that have enacted just cause policy. *It is, however, a list that localities are free to adopt or change, as localities see fit.*



Lease non-renewal evictions have more than doubled compared to 2019, but judicial statistics do not tell the whole story of displacement caused by "no cause" policy. After they receive a notice to vacate, many renters leave their housing behind before the landlord needs to resort to filing a Tenant Holding Over action.

Source: Maryland Judiciary, <https://mdcourts.gov>

### **Where is the interest in "just cause eviction"?**

Since 2008, just cause eviction legislation has been introduced 8 times – including multiple statewide bills, as well as bills specific to Prince George's County and Montgomery County. During the COVID-19 state of emergency, Howard County unsuccessfully attempted to prohibit lease non-renewals while Baltimore City passed a short-term provision to require just cause for lease non-renewals until 6 months after the state of emergency's end. These efforts demonstrate a sustained desire in Maryland localities for just cause policies.

Washington, D.C. (since 1985) and Philadelphia (since 2018) have adopted just cause eviction policies, and the state of New Jersey, too (since 1974). New Jersey's policy endeavor over many decades demonstrates that the benefit of just cause far outweighs the hypothetical that it hurts development. ["Something in the Garden State is clearly working. According to data from the Eviction Lab, New Jersey cities such as Trenton, Paterson, Jersey City, and West New York have among the lowest eviction rates in the country. Meanwhile, construction is absolutely exploding."](#)

Additionally, looking at 4 localities in California, a [2019 Princeton/Eviction Lab](#) study finds that "just cause eviction ordinances have a significant and noticeable effect on eviction and eviction filing rates. Given the budget limitations of many states and municipalities to fund other solutions to the eviction crisis, passage of just cause eviction ordinances appears to be a relatively low-cost, effective policy solution."

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Just this month (Feb. 2022), the American Bar Association (ABA) endorsed “just cause eviction” policies as one of “[Ten Guidelines for Residential Eviction Laws](#).” As reported in the ABA resolution:

When such good cause requirements are absent renters and their families lack basic security of tenure. Forcing a household to relocate imposes significant disruption and potential hardship on the tenant, and should not be allowed without a legitimate reason. Allowing eviction without cause invites abuse, enabling a discriminatory, retaliatory, or otherwise illegitimate motive for ending a tenancy to be easily concealed behind a “no cause” eviction.

American Bar Association, House of Delegates Resolution 612, 9-10. The ABA urges all federal, state, local governmental bodies to implement “just cause eviction” as part of the Ten Guidelines for Residential Eviction Laws.

***“Just cause eviction” is not anti-development.***

HB0881 permits local legislatures to create balanced responses to unaffordable housing and concentrations of housing displacement. As summarized in the [2020 Maryland Housing Needs Assessment](#), nearly half of all Maryland renter households (335,000 out of 716,000) are “cost burdened,” meaning they pay more than 30% of income on housing.<sup>1</sup> Among cost-burdened renter households, half are “severely” burdened, paying more than 50% of income toward housing costs.<sup>2</sup> Montgomery, Prince George’s, and Baltimore counties and Baltimore City account for almost 70% of Maryland’s severely cost-burdened households.<sup>3</sup>

Whether low-wage workers, seniors, or people with disabilities, those who live one paycheck to the next are under enormous pressure to keep up with unaffordable rent. If forced to move because their current landlord refuses to renew their lease, these renters face dire straits in securing funds to pay moving costs and to pay the security deposit and first month’s rent when they sign the lease for their next home. When affordable, safe, habitable housing is a rare commodity as at present, a “just cause” requirement for evictions helps these households maintain roots in their communities and stable in their personal and economic lives.

Just cause policy can buoy the rental housing market because it recognizes that when renters are stably housed, they are better able to contribute to the workforce and the economy.

***Maryland’s current retaliation law does not fully protect tenants.***

Maryland’s existing protection against retaliatory lease terminations (Real Property § 8-208.1), while helpful, has numerous shortcomings:

- The list of protected activities includes only specific activities like complaining about the condition of the property.

<sup>1</sup> National Center for Smart Growth and Enterprise Community Partners, Inc., *2020 Maryland Housing Needs Assessment & 10-Year Strategic Plan 23* (Dec. 2020), <https://dhcd.maryland.gov/Documents/Other%20Publications/Report.pdf>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

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- If the tenant's protected activity occurred more than 6 months before the eviction action, or the tenant is not current on rent, then the tenant has no defense.
- The renter has the burden to prove the landlord's motive in a court process that does not allow discovery or time to subpoena records or witnesses. These renters have no right to legal representation.

For many renters, the current retaliation law offers no protection. HB0881 allows localities to establish wider protection through just cause requirements. Landlords would still evict tenants for legitimate reasons such breach of lease. They would not, however, evict tenants arbitrarily or out of retaliatory motive.

**Public Justice Center is a member of the Renters United Maryland coalition and urges a FAVORABLE report on HB0881.** If you have any questions, please contact Zafar Shah, (410) 625-9409, shahz@publicjustice.org.