



HOMELESS PERSONS REPRESENTATION PROJECT, INC.

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Support – HB 0101 – Landlord and Tenant – Repossession for Failure to Pay Rent – Lead Risk Reduction Compliance Hearing of the House Environment & Transportation Committee, January 18, 2022

The Homeless Persons Representation Project, Inc. (HPRP) is a non-profit civil legal aid organization that provides free legal representation to people who are homeless or at risk of homelessness on legal issues that will lead to an end to homelessness. HPRP regularly represents tenants in failure to pay rent cases and other landlord-tenant matters in Baltimore City.

HB 0101 would ensure that District Court rent dockets throughout Maryland provide no safe harbor for landlords who operate in violation of the state Reduction in Lead Risk in Housing law and/or local rental licensing ordinances. Similar legislation passed in the House as recently as 2021. We urge the Committee to report Favorable on this bill.

HB 0101, like HB 0174, would effectively bar unlicensed, law-breaking landlords from taking advantage of the court's specialized, "summary" procedures for eviction for non-payment of rent. This bill goes one step further than HB 0174 by targeting non-compliance with Maryland Department of the Environment's (MDE) lead inspection requirements for rental housing.

By blocking law-breaking landlords' use of a go-to debt collection process, this bill eliminates the financial incentive to ignore the public safety measures of MDE and city/county housing agencies. HB 0101 is a much-needed measure to boost the enforcement of lead inspection and rental licensing requirements.

HB 0101 strengthens the barrier against rogue landlords' use of 'Rent Court'

Although the District Court requires self-reporting of lead inspection and rental license compliance on the Failure to Pay Rent form complaint, more is needed to stop unlicensed landlords' routine use of the courts while they violate the law by leasing units without a valid lead inspection certificate or rental license

HB 0101 would require all landlords to demonstrate, by preponderance of evidence at the trial of a Failure to Pay Rent action, that there is a valid lead inspection certificate and rental license for the property. To meet that burden, a landlord would need only "direct evidence" of these records. A physical copy or electronic copy would be sufficient as direct evidence. *Electronic copies of lead inspection records are now widely available via the MDE's new Lead Rental Certification and Accreditation database (<https://mde-lrca.maryland.gov/Certificates.aspx>).*

By meeting the "direct evidence" burden, the landlord may proceed with case and may win a judgment for possession. Where the landlord fails to meet this burden of proof, HB 0101 leaves it to judges to decide the final disposition of the action.

Importantly, HB 0101 clarifies that it is neither the court nor the tenant who should carry the burden of identifying the lead risk reduction compliance and rental license compliance of rental properties. This bill does not require clerks to inspect records or rule on them – that is the fact-finding duty of the judge. If compliance is contested and additional evidence or testimony is needed, HB 0101 provides that judges may postpone the Failure to Pay proceeding for up to **10 days** to allow either party to return with the need documentation or witnesses.

Background on use of specialized court process by unlicensed landlords

The Court of Appeals decision in *McDaniel v. Baranowski*, 419 Md. 560 (2011), established that judges may not award any relief in Failure to Pay Rent eviction cases where the landlord has failed to comply with local licensing requirements. Since that decision, the courts' Failure to Pay Rent form complaint has included fill-in lines that require landlords to declare their rental license compliance. Nonetheless, in the decade since *McDaniel*, the use of "summary" court procedures by unlicensed landlords remains steady. Public Justice Center's [2015 study *Justice Diverted*](#) revealed that, from an investigation of over 100 contested eviction actions in Baltimore City, over 70 percent of landlords had either omitted rental licensing information on the complaint or provided the court invalid information – and nearly 80% of landlords failed to provide valid lead compliance information. Examining the entire state in [a 2016 report](#), Maryland Legal Aid reported that, in over 21,000 eviction cases resulting in default judgments for repossession, the landlord had failed to provide any rental licensing information on the court complaint despite not having an exemption from licensing.

Since then, the use of "summary" eviction procedures by rogue landlords has continued, as evident in recent appellate cases:

- *Pettiford v. Next Generation Trust Service*, 467 Md. 624 (2020), finding that tenants in unlicensed properties may raise a habitability defense to Failure to Pay Rent actions without the threat of immediate eviction.
- *Aleti v. Metropolitan Baltimore, LLC*, 251 Md.App. 482 (2021), finding that unlicensed landlords cannot charge legal fees to tenants for Failure to Pay Rent actions.
- *Velicky v. Copycat Building LLC*, 474 Md. 201 (2021), holding that unlicensed landlords, though blocked from Failure to Pay actions, may still use the Tenant Holding Over process to evict tenants.

Amid these court opinions, HB 0101 is necessary to make clear that landlords have the burden to show documented compliance in order to proceed in Failure to Pay eviction actions. In light of *Velicky*, too, the General Assembly should consider a holistic solution that bars unlawful landlords from any of the three specialized eviction procedures: Failure to Pay Rent, Tenant Holding Over, and Breach of Lease.

The Homeless Persons Representation Project is a member of the Renters United Maryland coalition and asks that the Committee **issue a report of FAVORABLE on HB 0101**. If you have any questions, please contact Karen E. Wabeke at 410-685-6589 ext. 20 or kwabeke@hprplaw.org with any questions.