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HB 1069 – MD Bedbug Detection and Treatment Act

Hearing before the Environment and Transportation Committee, March 1, 2022

Position: FAVORABLE WITH AMENDMENTS

Bed bugs are a growing menace to the health and safety of renters and the public. Public Justice Center has assisted renters who have suffered severe, negative health outcomes from bed bugs. Currently there is little guidance in the law for addressing bed bugs. **HB 1069 proposes a framework for addressing bed bugs in rental housing, and the Public Justice Center urges the Committee to issue a favorable report so long as the bill includes three key amendments that are addressed in large part by SB 529, currently pending in Judicial Proceedings.**

I have provided additional context for our experience with bed bugs in rental housing below, but I want to move directly to the amendments that we are seeking. Both HB 1069 and SB 529 (pending in JPR) provide a framework for addressing bed bugs that lays out the responsibilities of both landlords and tenants. In general landlords must inspect and treat bed bugs timely and pay for the costs of such measures; tenants must cooperate with the inspection and treatment process. **There are two key differences, however, in which HB 1069 places an undue penalty on tenants that rests solely in the hands of the landlord, instead of the discretion of the court.**

- 1. The Court, not the landlord, should determine any costs assessed against tenants for noncompliance.** HB 1069, page 4, lines 26-30 states: “A TENANT WHO FAILS TO COMPLY IN A REASONABLE MANNER WITH THE INSPECTION OR TREATMENT REQUIREMENTS DESCRIBED IN THIS SUBTITLE IS LIABLE FOR THE COST OF ANY BEDBUG TREATMENTS FOR THE DWELLING UNIT AND CONTIGUOUS DWELLING UNITS OPERATED BY THE LANDLORD IF THE NEED FOR SUCH TREATMENTS ARISES FROM THE TENANT’S NONCOMPLIANCE.” This would allow the landlord to unilaterally determine whether a tenant had sufficiently complied with inspection and treatment protocols and assess massive penalties against a tenant for treatments related to a neighbor’s unit without judicial oversight. By contrast, SB 529 (page 5, lines 29-31), places the power to assess a fine for tenant-noncompliance in the hands of the Court (authorizing the Court to issue an order “ASSESSING THE TENANT WITH COSTS AND DAMAGES RELATED TO THE NONCOMPLIANCE OF THE TENANT.” HB 1069 already contains a similar provision at page 6, lines 3-4. Accordingly, page 4, lines 26-30 in HB 1069 should be deleted. **The Court should be the arbiter of whether a tenant has adequately complied with bed bug inspection and treatment protocols, not the landlord.**

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2. HB 1069 also places the responsibility on the tenant for “all costs associated with preparing the dwelling unit for inspection and treatment.” (page 4, lines 18-19). For tenants, “preparing” a dwelling for bed bug inspection/treatment could, depending on the treatment, be extensive – including moving all furniture, storing all personal belongings, etc. Tenants who have disabilities or senior citizens on fixed incomes may need additional assistance with such extensive preparations. Failing to accommodate such persons is both unfair and invokes fair housing considerations involving a protected class. Again, while HB 1069 provides landlords sole authority to determine whether to assess these costs, SB 529 provides the power to enforce tenant compliance to the Court. **The Court should maintain authority to determine any dispute between the landlord and tenant over what the tenant must do and what cost the tenant must pay in order to protect persons with disabilities and senior citizens. Accordingly, this provision should be deleted.**

3. **The bill should not preclude the landlord from being required to provide relocation assistance or paying for the tenant’s property if the landlord is at fault.** Page 5, lines 1-2, provide: Nothing in this section “REQUIRES A LANDLORD TO PROVIDE A TENANT WITH ALTERNATIVE LODGING OR TO PAY TO REPLACE A TENANT’S PROPERTY.” We suggest that this provision be deleted. If a landlord knowingly rents a bed-bug-infested property to a tenant, or if the treatment required is so extensive that the tenant cannot reside at the property, a landlord may be required to provide alternative lodging or pay damages for lost belongings. This provision should be deleted to leave open the possibility that a landlord may be liable for damages under certain circumstances.

With adoption of the amendments described above, HB 1069 will provide for a better balance between the rights of landlords and tenants that is in line with SB 529, and we urge a favorable report.

For background and additional knowledge, I have attached an opinion from one such PJC client case in *Simmons v. Aradu Properties*, District Court of Maryland for Baltimore City Case No. 010100190942014, in which former MSBA President Judge Mark Scurti opined “that a bed bug infestation does pose a threat to life, health, and safety” and ordered the landlord to pay the tenant \$6,850 in damages among other relief.

The CDC and EPA have provided guidance on bed bugs:

Bed bugs are small, flat insects that feed on the blood of sleeping people and animals. They are reddish-brown in color, wingless, and range from 1 to 7 millimeters in length. They can live several months without a blood meal....

Bed bugs are experts at hiding. They hide during the day in places such as seams of mattresses, box springs, bed frames, headboards, dresser tables, cracks or crevices, behind wallpaper, and under any clutter or objects around a bed. Their small flat bodies allow them to fit into the smallest of spaces and they can remain

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in place for long periods of time, even without a blood meal. Bed bugs can travel over 100 feet in one night, but they tend to live within 8 feet of where people sleep.

One of the easiest ways to identify a bed bug infestation is by bite marks that appear on the face, neck, arms, hands, and any other body parts. However, these bite marks may take as long as 14 days to develop in some people so it is important to look for other clues when determining if bed bugs have infested an area. These signs may include the exoskeletons ... of bed bugs after molting, bed bugs in the fold of mattresses and sheets, a sweet musty odor, and rusty-colored blood spots from their blood-filled fecal material that is often excreted on the mattress or nearby furniture.

Centers for Disease Control and Prevention and U.S. Environmental Protection Agency, *Joint Statement On Bed Bug Control In The United States* 3 (2010) (“Joint Statement”).¹

Bed bugs are a serious health and safety concern that the General Assembly should address:

- **Bed bugs reproduce and spread rapidly.** Female bed bugs lay between 3-5 eggs per day, producing as many as 500 eggs in their life cycle. Mich. Dep’t of Cmty. Health, *Michigan Manual for the Prevention and Control of Bedbugs* 4 (2010) (“Michigan Manual”).² The Baltimore City Health Department estimates that, left untreated, one bed bug can become over 30,000 bed bugs in just six (6) months. Baltimore City Health Dept., Healthy Homes Bureau, *Battling Bed Bugs Safely: A Guide to Preventing and Eliminating Bed Bugs* 2 (2010).³ According to the CDC and EPA, “Bed bugs are usually transported from place to place as people travel. Bed bugs travel in the seams and folds of luggage, overnight bags, folded clothes, bedding, furniture, and anywhere else where they can hide.” Joint Statement at 3.
- **Bed bugs are not the product of poor housekeeping or unsanitary conditions.** “The presence of bed bugs in human dwellings is not caused by a lack of cleanliness. They are an equal opportunity pest that only requires a warm, sleeping body and a place to hide nearby. Bed bugs have been found in both five-star hotels and homeless shelters.” Michigan Manual at 3.
- **Allocating “fault” between the landlord or tenant is virtually impossible according to HUD** “... because bed bugs could conceivably be introduced to a property by the owner, agent, on-site personnel, contractors, vendors, government representatives, etc. In effect anyone who has or had access to a property.” Memorandum re: The Reemergence of Bed Bug Infestation within Our Communities from Edward Hinsberger, Director, U.S. Dept. of Housing and Urban Dev., Chicago Regional Office, Region V, 2 (March 15, 2011) (“Chicago HUD Memo”) (on file with author).

¹available at <http://stacks.cdc.gov/view/cdc/21750>.

² available at

http://www.michigan.gov/documents/emergingdiseases/Bed_Bug_Manual_v1_full_reduce_326605_7.pdf

³ available at http://health.baltimorecity.gov/sites/default/files/BCHD_Bed_Bug_Manual_2011%28small%29.pdf

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- **Multi-unit buildings are particularly susceptible to the rapid spread of a bed bug infestation.** The EPA and CDC state: “Control in multi-unit family homes is much more difficult than in single family homes because bed bugs frequently travel between units, either by direct transport by humans or through voids in the walls. There are additional costs and complexities associated with coordinating and encouraging participation from multiple residents.”
- **Treatment for an infestation of bed bugs is often expensive and protracted.** The EPA and CDC recognize that there is no silver bullet to remediate bed bugs and recommend that owners and residents adopt an Integrated Pest Management (IPM) approach to treatment. Joint Statement at 4. This approach generally involves a number of chemical and non-chemical treatments and control mechanisms including:
 - using monitoring devices,
 - removing clutter where bed bugs can hide,
 - applying heat treatment,
 - vacuuming,
 - sealing cracks and crevices to remove hiding places,
 - using non-chemical pesticides (such as diatomaceous earth), and
 - judicious use of effective chemical pesticides
- **The EPA and CDC state: “Bed bugs cause a variety of negative physical health, mental health and economic consequences.”** Joint Statement at 2. The statement continues: “Many people have mild to severe allergic reaction to the [bed bug] bites, with effects ranging from no reaction to a small bite mark to, in rare cases, anaphylaxis (severe, whole-body reaction). These bites ... can also lead to secondary infections of the skin such as impetigo, ecthyma, and lymphangitis.” *Id.* Specifically, as the bed bug is feeding on human blood, a small amount of the bed bug’s saliva is injected under the skin, often causing an allergic reaction and the red, itchy swelling at the sight of the bite. Michigan Manual at 6. Allergic reactions to bed bugs are often a progressive condition, *i.e.*, some individuals become more sensitive to bed bug bites with repeated exposures over time, which can result in “more severe localized or even generalized allergic reactions.” *Id.* And, unfortunately, topical insecticides and treatments are generally ineffective; only anti-histamines or anti-inflammatory medications provide some relief. *Id.* at 8.
- **The most consistent, well-documented adverse impact of bed bugs, however, is on the mental health of those residing in an infested home.** As the CDC and EPA note: “Bed bugs may also affect the mental health of people living in infested homes. Reported effects include anxiety, insomnia and systemic reactions.” Joint Statement at 2. Persons living in a bed bug infestation “often experience a strong repulsive reaction to the idea of being fed on by bugs when unconscious and unaware. This may manifest as mild to severe anxiety and stress.” Michigan Manual at 8. Due to the unsightly blotches and fear of spreading bed bugs to family, friends and co-workers, people suffering from an infestation often become increasingly isolated, thereby further exacerbating anxiety and stress. Williams & Willis *supra* at 145; *see* Michigan Manual at 8 (“Because bed bugs

can be transmitted between people, people suffering with an infestation may feel isolated from friends and family”); HUD PIH Notice 2012-17 at 1 (“The presence of bedbugs may also contribute to stress or anxiety.”). Bed bug infestations carry the unwarranted stigma that the victim is somehow unhygienic adding to the social isolation and anxiety. Williams & Willis, *supra* at 145. Stress and anxiety related to the infestation frequently leads to sleepless nights and paranoid behavior.

- **HUD guidance to public housing strongly encourages Public Housing Authorities to proactively develop plans to address bed bugs** and train staff and residents on identifying bed bugs, conduct periodic inspections for bedbugs, educate residents about bedbugs including ways to minimize the risk of becoming infested, and encourage residents to come forward with bed bug complaints promptly in order to engage in early treatment. PIH Notice 2012-17 at 2-3. The Notice further requires the PHA to make contact with the tenant within 24 hours of a bed bug complaint, develop a plan for the tenant to prepare the apartment for treatment, obtain a professional bed bug inspection timely, and implement the IPM plan as soon as possible without charging the tenant for these services. *Id.* at 4.

We urge the Committee to adopt the following amendments:

1. Page 4, delete lines 18-19.
2. Page 4, delete lines 26-30.
3. Page 5, delete lines 1-2

Public Justice Center asks that the Committee **issue a report of FAVORABLE WITH AMENDMENTS on HB 1069**. If you have any questions, please contact: Matt Hill, hillm@publicjustice.org, 410-625-9409, ext. 229.