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February 14, 2022

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

From: Kira Wilpone-Welborn, Assistant Attorney General
Consumer Protection Division

Re: Senate Bill 529 – Real Property – Landlord and Tenant – Bedbugs (SUPPORT)

The Consumer Protection Division of the Office of the Attorney General (the “Division”) supports Senate Bill 529 sponsored by Senators Benson, Patterson, Lee and Sydnor. Bed bug infestations are costly and traumatic events for renters.¹ Senate Bill 529 seeks to remedy the harmful impacts of bed bug infestations in residential rental housing in several meaningful ways. First, Senate Bill 529 specifies the respective reporting, inspection, treatment, and payment obligations of tenants and landlords when bed bugs are known or suspected to be present in a unit. Second, Senate Bill 529 provides prospective renters the opportunity to obtain material information about past bed bug infestations in a unit offered for rent. Third, Senate Bill 529 affords tenants the opportunity to seek actual damages should landlords fail to comply with Senate Bill 529’s requirements.

The Maryland Real Property Code does not specifically address a landlord’s responsibility to inspect for and treat bed bug infestations in residential housing or notify prospective tenants of past bed bug infestations. Currently, after experiencing an active bed bug infestation, a tenant’s sole remedy is to file a rent escrow action, which may be insufficient to remediate a bed bug infestation if units surrounding the impacted unit are also infested but left untreated. *See* Maryland Real Property Article § 8-211. Rent escrow also does not compensate a tenant for any actual damages incurred as a result of an unabated infestation. *Id.* Senate Bill 529 would provide state-wide standards for suspected or known bed bug infestations in residential rental units by requiring immediate inspection and treatment by landlords. Most importantly, when a tenant reports a suspected or known bed bug infestation to a landlord, Senate Bill 529 would require the inspection

¹ *See* Goddard, J., & de Shazo, R. (2012). Psychological effects of bed bug attacks (*Cimex lectularius* L.). *The American journal of medicine*, 125(1), 101–103. <https://doi.org/10.1016/j.amjmed.2011.08.010> and The Federal Bed Bug Workgroup, Collaborative Strategy on Bed Bugs.

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and treatment of all contiguous units, which is essential to eradicate bed bugs in residential rental housing and is considered a best practice in Integrated Pest Management.²

Additionally, Senate Bill 529 would prohibit landlords from offering for rent any unit the landlord knows or reasonably suspects to contain bed bugs and, on request by a prospective tenant, would require landlords to disclose whether the unit offered for rent contained bed bugs within the previous eight (8) months. Senate Bill 529 would also require landlords, on request by a prospective tenant, to disclose the last date, if any, that the offered unit was inspected for and found to be free of bed bugs. Requiring the disclosure of this material information would allow prospective tenants to better compare units in the marketplace and choose a unit that is best suited for their ongoing health and safety.

The Division is concerned that, as proposed, §8-1003(A)(1)(ii) of Senate Bill 529, would allow landlords to include in a “take-it-or-leave-it” rental agreement a provision that reduces the minimum amount of notice the landlord is required to give a tenant prior to an inspection for or treatment of bed bugs. As the Maryland Court of Appeals has found: “[r]esidential leases are more likely to be provided on a take-it-or-leave-it basis and, as here, to be provided after the tenant has already agreed to lease the premises and to be signed by the tenant without being read.” *Lockett v. Blue Ocean Bristol, LLC*, 446 Md. 397, 419–20 (2016). Recognizing the “take-it-or-leave-it” nature of rental agreements, allowing landlords to reduce the minimum notice requirement could harm consumers who may overlook such a provision at lease signing or, more importantly, who likely would have no ability to negotiate the term in a “take-it-or-leave-it” contract and have no reasonable alternative. Further, §8-1003(A)(1)(ii) is unnecessary because § 8-1003(A)(1)(iii) permits tenants to waive the required 48-hour notice of entry at the time of a known or suspected bed bug infestation.

The Division requests that the Judicial Proceedings Committee give Senate Bill 529 a favorable report.

cc: The Honorable Joanne C. Benson
The Honorable Obie Patterson
The Honorable Susan C. Lee
The Honorable Charles E. Sydnor, III
Members, Judicial Proceedings Committee

² See The Federal Bed Bug Workgroup, *Collaborative Strategy on Bed Bugs*, pg. 9 (“Because bed bugs can move between housing units, the best IPM practice is to inspect adjacent areas or units, units above and below the infested unit, and units across the hall.”).