



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

**STATEWIDE
ADVOCACY SUPPORT UNIT**

Cornelia Bright Gordon, Esq.
Director of Advocacy
for Administrative Law
(410) 951-7728
cbgordon@mdlalab.org

Gregory Countess, Esq.
Director of Advocacy
for Housing & Community
Economic Development
(410) 951-7687
gcountess@mdlalab.org

Anthony H. Davis, II, Esq.
Director of Advocacy
for Consumer Law
(410) 951-7703
adavis@mdlalab.org

Erica I. LeMon, Esq.
Director of Advocacy
for Children's Rights
(410) 951-7648
elemon@mdlalab.org

February 14, 2022

The Honorable Luke Clippinger
Judiciary Committee
Room 101
House Office Building
Annapolis, Maryland 21401

**RE: Maryland Legal Aid's Testimony in Support of House Bill (HB) 703 - Real
Property - Actions to Repossess - Judgment for Tenants and Proof of Rental
License**

Dear Chair Clippinger and Members of the Committee:

Thank you for the opportunity to testify in support of HB 703. Maryland Legal Aid (MLA) is a non-profit law firm that provides free legal services to the State's low-income and vulnerable residents. MLA's 12 offices serve residents in each of Maryland's 24 jurisdictions. MLA handles various civil legal matters, including family law, housing, public benefits, consumer law (e.g., bankruptcy and debt collection), and criminal record expungements to remove barriers to obtaining child custody, housing, a driver's license, and employment. Maryland Legal Aid supports HB 703 and asks that the committee give it a favorable report.

This letter serves as notice that Lee Ogburn, Esq. will testify in support of HB 703 on behalf of MLA at Delegate Mary Lehman's request. HB 703 will require landlords to demonstrate their compliance with applicable licensing requirements before seeking the benefit of the Real Property Article's expedited procedures to evict or recover money from tenants. MLA believes that landlords should comply with the law before seeking the benefit of the law.

MLA views HB 703 as being consistent with the long-standing principle of Maryland law that a contract made by a person required by law to be licensed for the protection of the public, but who fails to obtain the license, is an illegal contract that the unlicensed person cannot enforce. In this written testimony, this principle is referred to as the *McDaniel* principle, after *McDaniel v. Baranowski*, 419 Md. 560 (2011), a case applying the principle in the landlord/tenant context.

EXECUTIVE STAFF

Wilhelm H. Joseph, Jr., Esq.
Executive Director

Stuart O. Simms, Esq.
Chief Counsel

Gustava E. Taler, Esq.
Chief Operating Officer

Administrative Offices
500 East Lexington Street
Baltimore, MD 21202
(410) 951-7777
(800) 999-8904
(410) 951-7778 (Fax)

www.mdlalab.org
04.2021



The bill would apply the *McDaniel* principle to sections 8-401 (failure to pay rent), 8-402(tenant holding over), and 8-402.1(breach of lease) of the Real Property Article by requiring a landlord to be licensed before it seeks to enforce its lease under those sections. The Court of Appeals has already applied the principle to failure to pay rent cases in *McDaniel v. Baranowski*, but in a recent case, the court declined to extend the principle to tenant holding over claims on legal grounds that do not bear on the compelling policy consideration that supports HB 703.

The policy consideration to extend the *McDaniel* principle to tenant holding over cases and to breach of lease cases is that unlicensed landlords use those types of cases as an end-run around the *McDaniel v. Baranowski* rule that prohibits them from suing in “rent court,” where failure to pay rent cases are heard. Instead of obtaining a license to proceed in rent court, unlicensed landlords evict tenants by bringing tenant holding over or breach of lease cases. Consequently, the purpose of requiring a landlord to be licensed is defeated. Instead of bringing its rental property up to code to obtain a license, the unlicensed landlord can continue in business, in violation of the licensure laws, by evicting tenants under the tenant holding over or breach of lease statutes and then re-renting the unlicensed premises.

This is not a hypothetical problem. MLA advocates have seen a prominent unlicensed Baltimore landlord use the tenant holding over statute as an end-run around the prohibition against using the failure to pay rent statute. The owner of the CopyCat Building, an unlicensed 58 unit-building of rental lofts in Baltimore City, announced to its tenants on June 15, 2020, that “we use Tenant Holding Over Court, and our mortgage is NOT federally funded.” This landlord made good on the threat to use “Tenant Holding Over Court” to evict tenants, and in that fashion, has stayed in business as an unlicensed landlord even while failing to make the improvements necessary to obtain a license. CopyCat has not held a rental license since at least December 15, 2019, when it was issued a citation and a \$1,000 fine for failing to have the required rental license, yet CopyCat continues to rent units, without a license, to this day. This is unfair both to CopyCat’s tenants and to law-abiding landlords who spend the money necessary to bring their properties up to code.

HB 703 would end this practice, which is not unique to the CopyCat Building. This bill is necessary to stop unlicensed landlords, like CopyCat, from operating in violation of the law rather than complying with the licensing requirements intended to protect the health and safety of their tenants. The bill closes a loophole exploited by landlords to avoid the very purpose of the licensing requirements – to bring rental properties up to code. This bill is necessary to protect the many low-income Marylanders who rent from such landlords.

For these reasons, MLA respectfully asks that the Committee give HB 703 a favorable report.

/S/ Lee Ogburn
Lee Ogburn, Esq.
Staff Attorney
410-951-7699
logburn@mdlab.org