



HB 703 - Real Property – Actions to Repossess – Judgment for Tenants and Proof of Rental Licensure
Judiciary Committee
February 16, 2022
SUPPORT

Chair Clippinger, Vice-Chair, and members of the committee, thank you for the opportunity to submit testimony in support of House Bill 703. This bill aims to disincentive landlords' non-compliance with local rental license laws.

The CASH Campaign of Maryland promotes economic advancement for low-to-moderate income individuals and families in Baltimore and across Maryland. CASH accomplishes its mission through operating a portfolio of direct service programs, building organizational and field capacity, and leading policy and advocacy initiatives to strengthen family economic stability. CASH and its partners across the state achieve this by providing free tax preparation services through the IRS program 'VITA', offering free financial education and coaching, and engaging in policy research and advocacy. **Almost 4,000 of CASH's tax preparation clients earn less than \$10,000 annually. More than half earn less than \$20,000.**

HB 703 would block unlicensed landlords from accessing the district courts' trio of specialized, fast-track procedures for eviction: Failure To Pay Rent (Real Prop. § 8-401), Tenant Holding Over (§ 8-402), and Breach of Lease actions (§ 8-402.1). Under HB0703, if a landlord does not have a valid rental license (where applicable), they cannot use special court procedures for eviction. If they want to use any of those three procedures, they need to comply with local law and obtain the necessary rental license.

Rental licensing is a fixture of local efforts to ensure safe, healthy housing throughout Maryland. By making licenses for rental operations contingent on routine housing inspections, Maryland jurisdictions have a proactive means to ensure that dwelling units meet habitability standards and to protect renters from unsafe housing conditions. Rental license schemes typically supplement local agencies' complaint-based inspection programs.

HB 703 puts the burden of proof on landlords to show a valid rental license to a judge in any action to evict a residential tenant.

Without a law that expressly places the burden on landlord plaintiffs, illegally operating landlords easily go undetected in the courts' streamlined eviction procedures. When an unlicensed landlord uses the courts' eviction procedures, they profit from licensing non-compliance by using the threat of eviction to collect rent. Equally, they may use the court-approved threat of eviction to silence and to intimidate tenants who withhold rent or raise complaints about substandard conditions. When unlicensed landlords carry through with court-ordered evictions, they remove tenants who spoke up and replace them with new tenants unaware of the unlicensed operation.

This cycle of profit and evasion of local law is unwittingly aided and abetted by judges, clerks, and sheriffs. It hurts renters and undermines local agencies' efforts to eradicate unsafe housing.

HB 703 ends the cycle and cleans up the courts by putting the onus on landlords to show a valid rental license where the local jurisdiction requires one.

HB 703 also clarifies the muddled law around standing to evict.

The 2011 Court of Appeals opinion *McDaniels v. Baranowski* held that unlicensed landlords lack claimant status in Failure To Pay Rent actions and may not use that special, summary procedure. The Court said that landlords must "plead and demonstrate" valid licensing when they file summary ejectment actions, but the decision did not spell out whether landlords must demonstrate the licensing at trial. Consequently, district court forms for Failure to Pay

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Rent actions require that landlords state a rental license number (where applicable), but there is no burden of proof unless a tenant contests the issue at trial. A 2015 review of eviction actions found that over 70 percent of landlords in one jurisdiction had either omitted licensing information or provided invalid information.

In November 2021, the Court of Appeals made the picture even less clear. In *Velicky v. Copycat Building*, the Court affirmed its prior decision that unlicensed landlords may not use summary ejectment for Failure To Pay Rent – but also found that such landlords may utilize Tenant Holding Over actions to evict their tenants.

In dissent, Judge Watts said, “Allowing Copycat to evict Petitioners in a tenant holding over action under RP § 8-402 without a license essentially renders the licensing requirement of Baltimore City Code, Art. 13, § 5-4(a) meaningless and defeats its purpose of ensuring that rental properties are fit to live in. As a result of the majority opinion, Copycat and other landlords will have very little incentive to get licenses, which would require bringing rental properties up to code.”

For these reasons, we encourage a favorable report on HB 703.