



C. Matthew Hill
Attorney
Public Justice Center
201 North Charles Street, Suite 1200
Baltimore, Maryland 21201
410-625-9409, ext. 229
hillm@publicjustice.org

HB 757 - Real Property – Expedited Wrongful Detainer Proceedings – Property for Sale or Lease

**Hearing before the Judiciary Committee,
March 1, 2023, 1:00PM**

Position: UNFAVORABLE (UNF)

Public Justice Center (PJC) is a nonprofit public interest law firm that assists over 800 renters each year. We stand with tenants to protect and expand their rights to safe, habitable, affordable, and non-discriminatory housing. We oppose HB 757 as drafted because it would unconstitutionally deprive Maryland residents of adequate notice and an opportunity to dispute a property owner's assertion that the resident is a squatter.

Public Justice Center has no intention of defending squatters, but innocent parties and *bona fide* tenants are often swept into wrongful detainer proceedings by con artists and unscrupulous developers. For example, families often come to Public Justice confused when they are facing a wrongful detainer action. They toured a property for rent, signed a lease, got a key, paid the security deposit and first month's rent, and moved into the home. Two weeks later, a new individual knocks on the door claiming to be the owner of the property and demands that the family vacate. The family calls the person who leased the property to them, but he won't pick up the phone. The family has become the victim of an all-too-frequent scam in which a con artist pretends to be the property owner, changes the locks on the property and takes thousands of dollars from an unsuspecting family before disappearing. The family then faces a wrongful detainer action and needs notice and an opportunity to be heard as to whether they had a *bona fide* lease from someone authorized to lease them the property.

Similarly, we have seen a number of cases in which an unscrupulous developer will buy a property and immediately file a wrongful detainer action against the occupants of the property without first determining whether the current occupants are tenants – and they are usually tenants. The developer hopes that the tenant will not show up for the wrongful detainer hearing, or if the tenant does show up to the hearing, the developer and their attorney will try to force them into an unfair settlement.

HB 757 would unfairly deprive residents such as the individuals described above with adequate notice and an opportunity to be heard to defend any rights they have in the property.

By claiming that the property is for sale or lease, a property owner under HB 757 would have access to an extremely truncate judicial process that likely violates constitutional due process. For example, HB 757 provides that a hearing shall be held within 5 days of filing the complaint and provides primarily for service of the complaint/summons through the Sheriff posting the summons/complaint on the property. The U.S. Supreme Court has held that posting of the eviction summons/complaint alone – without accompanying mailing – violates due process because it is not sufficiently likely to inform the tenant of the pending proceedings. *Greene v. Lindsey*, 456 U.S. 444, 444–45 (1982). Even if service by mailing was added into the bill, we would have concerns that with the current, systemic delays in the postal service. Five days is still far too short of a time period to make it likely that the complaint/summons reaches the resident in time for the resident to obtain counsel, prepare any defense, and defend themselves at trial. Similarly, requiring any appeal to be noted within two days of the judgment and an appeal hearing held within three days of the judgment does not provide the party who lost at trial with an adequate opportunity to seek legal counsel and evaluate the merits of an appeal. Legal services providers still have far more requests for assistance than can be met, and obtaining competent representation usually takes more than at least a week. Wrongful detainer is already an expedited process. In our experience, most trials are held within three weeks of filing; there is no discovery; and no counterclaims are allowed. HB 757 would severely restrict the rights of residents even further to receive notice of a hearing, obtain legal representation if qualified, and prepare any defense.

Public Justice Center asks that the Committee issue an UNFAVORABLE report on HB 757.