



**MARYLAND  
LEGAL AID**

*Advancing*  
**Human Rights and  
Justice for All**

**HB0402 - Real Property – Nuisance and Breach of Lease Actions – Rodent Harborage**

Hearing before the House Environment and Transportation Committee,

Feb. 13, 2024

**Position: UNFAVORABLE**

*Maryland Legal Aid (MLA) submits its written and oral testimony on HB0402 at the request of Delegate Jen Terrasa.*

MLA is a non-profit law firm that provides free legal services to the State’s low-income and vulnerable residents. We serve residents in each of Maryland’s 24 jurisdictions and handle a range of civil legal matters, most prominently those arising from housing insecurity and substandard rental housing conditions. HB0402 appears to be a well-meaning effort to combat the rodent problems that harm many MLA clients. However, the bill targets renters, instead of neglectful property owners. MLA therefore urges the Committee’s unfavorable report on HB0402.

HB0402, at page 3:23-25, creates a new basis for “breach of lease” (BROL) eviction actions. The bill introduces a new BROL action to evict a tenant “for behavior that causes or contributes to rodent harborage,” which is defined at 3:4-11 as a condition that “provides sustenance or shelter for mice or rats or promotes their reproduction and continued existence on a property” and further creates or contributes to property damage, injury to public health or safety, injury to the welfare of the landlord, or obstruction of use of the property itself or any other property.

The Real Property article, at § 8-402.1, already provides landlords the means to terminate a lease prior to its expiration and subsequently initiate eviction proceedings whenever a tenant breaches the lease. If HB0402 intends for landlords to terminate unexpired leases because the tenant violated the lease by causing or contributing to rodent harborage, then the language of HB0402 is completely superfluous with the existing statute. Alternatively, the bill may intend to allow landlords a procedure to terminate unexpired leases without having to show any lease violation. MLA opposes HB0402 equally in either respect.

Section 8-402.1 properly focuses on the totality of circumstances that surround a lease. Under existing law, the performance of contractual obligations by the landlord is as important to the case as the tenant’s. Under HB0402, a BROL action would not examine the landlord’s acts or omissions that “create or contribute” to rodent harborage. Only the tenant’s “contributing” behavior is at issue. This unfairly holds tenants responsible for circumstances outside their control.

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All too commonly, MLA clients move into rental properties in which structural defects allow rodent harborage or into rental properties with preexisting rodent harborage. For such tenants, their ordinary behavior, such as leaving dirty dishes in the kitchen sink, may under HB0402 “cause or contribute” to rodent harborage, without any factoring of the landlord’s obligations to repair structural defects, conduct rodent extermination, or provide the tenant rodent-proof garbage receptacles, whether at the outset of a tenancy or during it.

Additionally, the cause of action for nuisance in HB0402 contravenes the existing nuisance provisions in Real Property §§ 14-123, 14-124, 14-125, and 14-125.1. Each of those sections establish local causes of action for nuisance, specifying a range of local code violations on which the action may be brought and enumerating due process measures. Those sections also bar nuisance actions based on alleged “interior physical defect of a property.” HB0402 provides none of the legal and procedural details of existing nuisance law and contradicts them by allowing nuisance actions based on interior physical defects.

**Maryland Legal Aid urges the Committee to issue an UNFAVORABLE report on House Bill 407.**

If you have any questions, please contact: Zafar S. Shah, Assistant Director of Advocacy – Tenants’ Right to Counsel Project, at [zshah@mdlab.org](mailto:zshah@mdlab.org) or (410) 951-7672.