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February 21, 2025

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

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

Re: Senate Bill 989 – Real Property - Unauthorized Occupants - Sheriff's Property Registry
and Removal (OPPOSE)

The Consumer Protection Division of the Office of the Attorney General (the “Division”) opposes Senate Bill 989 sponsored by Senators Nick Charles and Ron Watson. Senate Bill 989 seeks to address squatting by creating an end-run around the wrongful detainer process already provided in law to remove unlawful occupants. Specifically, Senate Bill 989 would create a voluntary registry that would permit owners to access an extra-judicial eviction process. For the following reasons, the Division opposes Senate Bill 989 and requests the Judicial Proceedings Committee issue an unfavorable report.

First, the extra-judicial eviction created by Senate Bill 989 does not provide meaningful notice or an opportunity to be heard. *See Todman v. Mayor and City Council of Baltimore*, 104 F. 4th 479, 488 (2024)(“The essence of due process is the requirement that ‘a person in jeopardy of serious loss [be given] notice of the case against him and opportunity to meet it.’”). While Senate Bill 989 requires the sheriff to serve a notice to the occupant, the sheriff is then instructed to immediately eject the occupant and return possession to the owner. More troubling, the occupant has no opportunity to be heard. Indeed, the sheriff is under no obligation to assess whether the occupant is in lawful possession or not. The process provided by Senate Bill 989, or lack thereof, could raise a constitutional question that the Committee might raise with Counsel to the General Assembly.

Second, Senate Bill 989’s lack of process could promote unfair, abusive, and deceptive trade practices that would substantially harm Maryland consumers. Indeed, the process created by

the bill could ensnarl lawful occupants including homeowners whose property was sold at tax sale, and legal tenants with an oral lease agreement or with a written agreement withheld by the landlord. Lawful occupants of property entangled by a false request from a bad faith owner could find themselves out of their homes without any of their personal possessions or ability to contest the ejectment. Although Senate Bill 989 provides unlawfully ejected occupants a private right of action against the owner, the remedies are insufficient for the harm caused by the ejectment.

Finally, Senate Bill 989's creation of a voluntary registry that would allow owners to access the unconstitutional extra-judicial eviction would provide no protection for impacted occupants. Because the registry is voluntary and is not required to be publicly available, potential victims of scammers would not necessarily have access to the registry for relevant information. Additionally, to join the registry the property is not required to be vacant. As a result, bad-faith owners could register their property that has a legal occupant and then skirt proper eviction procedures to have the sheriff eject the occupant. Therefore, the voluntary registry envisioned in this bill provides no protection for lawful occupants.

For these reasons, the Division urges the Judicial Proceedings Committee to issue an unfavorable report.

Cc: The Honorable Nick Charles
The Honorable Ron Watson
Members, Judicial Proceedings Committee