



Senate Bill 556

Committee: Judicial Proceedings

Bill: Senate Bill 556 Real Property - Fraudulent Possession and Unauthorized Lease or Listing - Prohibition and Removal

Date: 2/6/25

Position: Favorable with Amendments

The Maryland Multi-Housing Association (MMHA) is a professional trade association established in 1996, whose members house more than 538,000 residents of the State of Maryland. MMHA's membership consists of owners and managers of more than 210,000 rental housing homes in over 958 apartment communities and more than 250 associate member companies who supply goods and services to the multi-housing industry.

Senate Bill 556 ("SB 556") prohibits the intentional fraudulent sale, conveyance, or lease or attempted sale, conveyance, or lease of residential real property by a person who does not own said property. It prohibits a person from possessing or claiming a right to possess real residential property that they do not have the legal right to possess. It also permits the owner of said property to file an affidavit and have a law enforcement official remove that unauthorized person from their property.

This legislation addresses a growing concern in Maryland's real estate market, namely that an owner's rights are at risk as to whom or what entity they would like to sell, convey, or lease their property. Instead, owners become entangled with an individual with whom there is no contractual relationship. MMHA believes that SB 556 can be the vehicle to effectively combat fraudulent activities that pose a significant risk to property owners, legitimate tenants, and the community at large.

Below we will outline a couple of critical scenarios that threaten property owners and tenants alike.

- 1. Inability to Screen Unauthorized Occupants:** The screening of applicants is a critical component of the leasing process. While it is true that owners cannot guarantee safety, measures are taken to attempt to screen those who desire tenancy at their property. For many of our members, background checks may require a screening of the National Sex Offender Registry. In many cases, if an individual is listed on that registry, a lease would not be offered. Removing the ability to run that screening exposes an owner to potential lawsuits. Simply stated, owners need to know who is residing in their property. This legislation seeks to provide a tool for the owner to not only remove that individual and restore possession to the rightful owner but also mitigate the safety risk to other tenants.
- 2. Unauthorized Subletting:** An essential part of many of our members' leases, is that a tenant is not allowed to sublet their apartment. Executing a sublease that is explicitly prohibited is a material breach of the lease. Moreover, while the typical response to a

breach of lease is to issue a management notice, that would be against the actual leaseholder, not the unauthorized subleasee. An unauthorized subleasee may not vacate the property which will require the owner to file a wrongful detainer action. This legislation will enable the owner to not only regain possession of their property that was fraudulently acquired by the unauthorized subleasee but also hold the tenant directly responsible for the fraudulent lease.

With this said, MMHA would respectfully request friendly amendments to SB 556 by replacing and incorporating language from Senate Bill 46 and Senate Bill 489's 8-906 sections. Additionally, we would suggest the following for 8-906 (c):

(C) (1) THIS SUBSECTION DOES NOT APPLY IF:

(I) THE PERSON IN ACTUAL POSSESSION OF THE RESIDENTIAL REAL PROPERTY HAS BEEN GRANTED POSSESSION UNDER A COURT ORDER; OR

(II) THE PERSON IN ACTUAL POSSESSION OF THE RESIDENTIAL REAL PROPERTY PRODUCES EVIDENCE OF LAWFUL POSSESSION OF THE PROPERTY TO A LAW ENFORCEMENT OFFICER; OR

(III) A REMEDY IS AVAILABLE UNDER TITLE 8 OF THE REAL PROPERTY ARTICLE.

These amendments would clear the intent of the legislation and match language from other bills, bringing a more comprehensive legislation together to combat these concerns. MMHA stands ready to work with sponsors and stakeholders alike to get SB 556 over the finish line.

Please contact Matthew Pipkin, Jr. at mpipkin@mmhaonline.org or Ashley Clark, Esq. at ashley.clark@mdlobbyist.com with any questions.