



Senate Bill 0556

Real Property- Fraudulent Possession and Unauthorized Lease or Listing – Prohibition and Removal

Hearing in the Senate Judicial Proceedings Committee

Hearing on February 6, 2025

Position: **UNFAVORABLE**

Maryland Legal Aid submits its written and oral testimony on SB0556 at the request of Committee member Senator Charles Sydnor.

Maryland Legal Aid (MLA) is a non-profit law firm that provides free legal services to the State's low-income and vulnerable residents. Our offices serve residents in each of Maryland's 24 jurisdictions and handle a range of civil legal matters, the most prominent of which is housing. MLA represents both low-income homeowners and renters. Our Tenant Right to Counsel Project represented tenants in over 4,600 cases in 2024. Maryland Legal Aid asks that this Committee report **unfavorably** on SB 556.

SB 556 intends to deter "squatting" by creating a new criminal penalties and extrajudicial removal procedures. Importantly, legislators need to know that Maryland law already provides an eviction process for so-called squatters – the Wrongful Detainer action under Real Property § 14-132. MLA strongly opposes this bill because:

- it would criminalize people and families who may have been fraudulently induced into moving into a property under an unauthorized lease agreement, and revictimize these households via sudden eviction without due process; and
- it would criminalize actual renters, who are accused of squatting, and deprive them of the right to be meaningfully heard in a Wrongful Detainer proceeding in which they could demonstrate their lawful right of possession.

SB 556 operates as follows:

1. A property owner submits an affidavit under penalty of perjury and additional supporting evidence of ownership to the Sheriff. The affidavit would assert that:
 - a. The occupant is not authorized or unlawfully entered and remained on the property.
 - b. The property was not open to the public when the occupation began.
 - c. The owner demanded the occupant to vacate.
 - d. The occupant is not a current or former tenant with the owner.

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- e. The owner and occupant are not currently in pending litigation.
 2. The Sheriff then “verifies” the affiant’s ownership of the property.
 3. Next, the Sheriff “without delay” serves notice, by posting or hand delivery, that instructs the occupants in the property to vacate immediately and restore possession to the owner.
 4. The Sheriff also will attempt to identify the occupants and arrest them for trespass, outstanding warrants, or any other cause.
 5. The Sheriff, on the owner’s request, remains “stand[ing] by” at the property as the owner changes the locks and removes all personal possessions from the property.

The bill does not provide any process to allow the occupant to contest the allegations made against them prior to eviction from the property.

Because SB 556 affords no meaningful notice to the occupants nor any meaningful opportunity to be heard, it invites the unconstitutional violation of the rights of actual renters who have no judicial forum in which to prove their lawful possession before eviction occurs. In the last year alone, Maryland Legal Aid represented 143 households in wrongful detainer actions in pursuant to our implementation of the Access to Counsel in Evictions law. Notably, these households were covered by the law because they were in fact not “squatters” but lawful renters. Under current law, that would be wholly unwound by SB 556, these families had meaningful notice and an opportunity to be heard in court.

Unlike other “Stop Squatter” bills before this Committee, SB 556 attempts to address abuse of its extrajudicial process by allowing the occupant to bring suit for wrongful eviction. This remedy is not preventative and would ultimately prove illusory because it limits relief to actual damages and liquidated damages capped at the equivalent of three times the rent, and because it shields the Sheriff from any liability.

SB 556 ignores the fact that “squatters” may be victims of fraud.

SB 556 is one of many “Stop Squatters” bills introduced during this legislative session that seek to either skip or fast-forward the courts’ eviction process by allowing law enforcement officers to immediately carry out evictions without a court order based only on a property owner’s affidavit.

As with other bills before the Committee, SB 556 suffers from disregard for low-income renters who may be accused of “squatting.” For instance, in a recent case at MLA, our client and her three family members had moved into rooms in what appeared to be an owner-occupied property rented out by a couple she knew as the Wallaces. Though there was no written lease, our clients paid \$400 monthly to the Wallaces for over a year. Then, in November 2024, the Wallaces disappeared without notice. In short order, our clients were summoned to court

in a Wrongful Detainer action by a Limited Liability Company, which claimed ownership and further claimed that it had no relationship with either the Wallaces or our clients. In the court case, it became evident that our client had been defrauded by two people who were not the owners, had no authority to lease out the property, and had likely taken possession of the property unlawfully. The district court awarded possession to the Limited Liability Company, and the sheriff carried out the eviction in freezing conditions on January 15. Our client's terrible situation would have been even more traumatizing under SB 556 because they would have had no time prepare for moving and no time to come to any understanding of the fraud perpetrated against them.

Absent from SB 556 is any recognition that the person possessing or claiming a right to possess the property may have signed a lease agreement and paid rent and a security deposit to a person who held themselves out to be the property owner or an agent of the owner. This erstwhile renter has no idea that they may lack a right of possession. They may have no copy of the signed lease, no contact information to trace the identity or location of the person who had held themselves out as owner or agent. Because it is common throughout Maryland rental markets for ownership identity to be hidden behind corporate names or obscured by delays in title transfers, and for property agents to act without a license or documentation of any agency authority, this erstwhile renter may not trust or believe any new face who shows up at the doorstep claiming to be the actual owner, realtor, property manager, etc.

SB 556 establishes criminal penalties for anyone who (1) presents a false deed, lease, or instrument of conveyance; (2) leases property one does not own or is not authorized to lease; or (3) advertises property for sale knowing the purported seller is not the lawful owner. Yet, these measures do nothing to support the unknowing victims of fraud who will find themselves immediately evicted by the sheriff.

SB 556 does not holistically address the “squatter” problem.

Instead of victimizing Maryland residents caught up in scams or falsely accused of squatting, the General Assembly should consider solutions that reach the root causes of fraud in the rental housing market. Holistic legislation could:

- Create a central, searchable, readily accessible rental property registry, so that renters can know who they are dealing with and whether that person is authorized to act on behalf of the actual owner of the property.
- Require the licensing of all rental property operators and managers, and require the listing of the properties they manage in the above look-up tool.
- Require written leases for all tenancies. State law and several local codes require only owners of five or more units to use written leases.

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- Create lease registries in local housing agencies by which renters can register their tenancy information. The agency could then cross-reference that information with existing rental licensing information such as owner and operator identity information.
 - Establish a victim assistance fund specific to the relocation needs of residents who face eviction due to leasing scams.

Creative solutions to address consumer protection gaps in the rental market will raise all ships. SB 556 does nothing to address these gaps.

SB 556 creates more problems than it solves.

MLA cautions the Committee against allowing the fear of “squatting” to weaken existing summary ejectment procedures and tenant protections at a time of rising public interest in expanding those protections. SB 556 is part of a trojan-horse strategy that leverages serious, though relatively rare, property disputes to introduce a statutory end-run around the court system. The National Housing Law Project’s analysis of “squatter” bills around the country succinctly describes this end-run:

Merely being accused of squatting can result in a law enforcement officer appearing at one’s door and demanding proof of lawful occupancy. Some of these confrontations are bound to end in improper evictions and displacements when tenants do not present satisfactory proof, or when police disregard perfectly sufficient documents. Other cases may end in violence or other bad outcomes independent of housing concerns. And the mere prospect of such police encounters empowers abusive landlords to intimidate tenants apprehensive about law enforcement interaction.

Maryland Legal Aid urges the Committee to issue a UNFAVORABLE report on Senate Bill 556.

If you have any questions, please contact:

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