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**SB 989: Real Property – Unauthorized Occupants – Sheriff’s Property Registry and Removal
Hearing in the Senate Judicial Proceedings Committee, Feb. 25, 2025**

Position: OPPOSED (UNF)

Public Justice Center is a part of Renters United Maryland, which strongly opposes SB 989 because it robs lawful residents of the right to constitutional due process. We have seen too many tenants and other residents victimized by scams and predatory property owners. SB 989 will empower those predatory property owners to *evict residents without court process* and *make the Sheriff the judge and jury* in every case. Maryland has a “wrongful detainer” court process already to remove unauthorized occupants.

The Maryland Attorney General’s Office of General Counsel recently opined in the attached letter that SB 556, which similarly bypasses the court for certain evictions, is constitutionally problematic: “[T]here is a significant risk that a court would find proposed RP § 14-132.1 to violate constitutional due process requirements if it were applied to scenarios where the occupant has a property interest.”

Florida recently passed a law like SB 989 and the result was unconscionable: [Pensacola family evicted from home with 15 minutes notice. Was it legal? New law says so.](#) A man who claimed to be the owner of the property (but was not the owner) swore an affidavit to the Sheriff to evict senior-citizen renters. Similar to SB 989, the Sheriff became the judge, jury, and executioner and evicted the seniors despite their protests. The fraudulent owner proceeded to sell off the seniors’ belongings including a wedding ring.

The so-called “Unlawful Occupant Registry” does **NOT** provide effective notice to anyone that a property is off-limits. The bill does **not** require creating a publicly accessible database. And even if it did, what renting family desperate for affordable housing is going to know to look on a local sheriff’s website when seeking to rent? It is pure fiction to think that placing a property in a registry maintained by a county sheriff and posting a notice on the door that anyone could take down somehow provides effective notice to anyone. **Maryland must not follow Florida’s path: SB 989 strips residents of their constitutional right to have any eviction defense heard before a court.**

A recent Public Justice Center client demonstrates the unconstitutional denial of due process, homelessness, and potential for violence that SB 989 would wreak. A Baltimore Banner article about her case is attached. Our client and 6 other elderly or disabled tenants had been living in a home in Baltimore City for years, paying rent each month. A new owner purchased the property and even

though he knew that there were seven elderly or disabled tenants in the home, he decided that he did not want to maintain the property and filed a complaint for Wrongful Detainer. The new owner thought that since he hadn't signed a lease, the residents were not tenants, which is completely wrong. Our clients never received notice of a court date, and didn't even know about the case until they received an eviction notice. We filed an emergency motion to stay the eviction with the court which was granted on the day that the eviction was supposed to take place. The parties subsequently settled. **If SB 989 were enacted, this new owner would only need to place the property on a "registry" with the Sheriff, claim that the renters were not authorized to live in the home, and then the Sheriff would evict them without court process – as is happening in Florida.**

Predatory landlords will abuse this process to evict tenants who complain about unsafe conditions. And landlords who threaten to report tenants as squatters will prompt plenty of tenants to vacate – even if that means homelessness – for fear of having the police called to their residences.

Predatory landlords will abuse this process to evict tenants who complain about unsafe conditions. And landlords who threaten to report tenants as squatters will prompt plenty of tenants to vacate – even if that means homelessness – for fear of having the police called to their residences.

Rental scams are pervasive and increasing. Victims of these scams will quickly be made homeless under SB 989, and this bill does nothing to assist victims of such scams. A 2022 survey of renters showed that [44% of renters have personally experienced or are aware of someone who has lost money due to rental scams](#). And the Better Business Bureau reported a [45% increase in rental scam complaints](#) over the past two years. In one 2018 survey, [more than 5 million renters reported losing money in such scams](#).

[Up to 25% of families who are evicted become homeless](#). Becoming homeless is even more likely for residents evicted after a rental scam because those residents are often the most desperate for affordable housing. Homelessness has a devastating impact, leading to [negative education outcomes for children, increased foster care, job loss, and poor health outcomes](#).

SB 989 will increase violent confrontations with law enforcement. [Eviction court processes were created to reduce the violence inherent in self-help evictions](#). By removing any opportunity for a renter to make a defense in court, this bill will increase potentially violent confrontations among law enforcement, renters, and property owners.

SB 989 will have a disparate impact on Black, woman-led households. Maryland's long history of housing segregation and discriminatory policies mean that Black and Brown Marylanders are much more likely to be renters and at risk of eviction, and therefore more likely to be most in need of affordable housing and victims of rental scams. [73% of MD households that obtained eviction prevention funds in the pandemic's wake identified as Black, and 71% identified as being woman-led](#).

SB 989 is [similar to model legislation from American Legislative Exchange Council \(ALEC\)](#), which has successfully passed in states such as Alabama, Tennessee, Florida, Georgia, and West Virginia. Maryland should not join these states in passing legislation that will strip residents of due process and increase homelessness.

Owners must adopt new processes and technologies to secure their units. Rental scammers are becoming more sophisticated, and [property owners of vacant units must keep up by using smart locks](#).

The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.

[security cameras, video doorbells, motion sensors, and smart lighting](#), which allow for remote monitoring and access control, providing real-time alerts about potential security threats.

There is no data to support this bill. The General Assembly should conduct a summer study.

This Committee is operating in a total absence of data related to Wrongful Detainer and the prevalence of squatting. How long does it take for a wrongful detainer complaint to be heard in court? How long from judgment to eviction? What best practices could sheriffs and courts adopt in wrongful detainer cases? Can Maryland revise the Wrongful Detainer process to address legitimate concerns while preserving due process for unsuspecting residents who believe that they are tenants? How can Maryland better assist victims of rental scams?

Public Justice Center is a member of Renters United Maryland, which strongly opposes SB 989 and urges an **unfavorable report**.

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February 13, 2025

The Honorable Sara Love
Maryland Senate
222 James Senate Office Building
Annapolis, Maryland 21401
Via email

RE: Senate Bill 556 — “Real Property – Fraudulent Possession and Unauthorized Lease or Listing – Prohibition and Removal”

Dear Senator Love:

You have asked whether Senate Bill 556 (“Real Property – Fraudulent Possession and Unauthorized Lease or Listing – Prohibition and Removal”) violates constitutional rights, including due process and access to courts, by allowing a sheriff to evict a person in possession of real property at the request of the owner without a judicial process to adjudicate any defense by the person in possession. Because of the many different factual scenarios where this bill may come into effect, it is not entirely clear to me whether Senate Bill 556, as introduced, could deprive occupants of a constitutionally protected property interest of some sort, and thus need to afford due process. To the extent Senate Bill 556 applies on its face *only* to unlawful, unauthorized occupants with no constitutionally protected property interest, it would not be clearly unconstitutional. In my view, however, there is at least a significant risk that a due process violation could occur upon implementation of the bill as currently written. Such a determination would depend on a factual and legal analysis of the particular circumstances.

Senate Bill 556

In addition to prohibiting fraudulent leases and real property conveyances, Senate Bill 556, as introduced, provides an extrajudicial removal process, where property owners can, under certain circumstances, request sheriffs to immediately remove unauthorized and unlawful occupants from residential real property. Proposed Md. Code Ann., Real Prop. (“RP”) § 14-132.1. After verifying the requestor is the lawful property owner or the owner’s authorized agent, the bill would require

the sheriff to, “without delay, serve notice to immediately vacate the property to the occupant of the property and deliver possession of the property to the requester.” The bill also authorizes the sheriff to “if appropriate, arrest any person found occupying the property for trespass, outstanding warrants, or any other legal cause.” After the sheriff serves notice to immediately vacate, the requestor may change the locks and remove any personal property from the premises.

Analysis

The 14th Amendment of the U.S. Constitution and Article 24 of the Maryland Declaration of Rights guarantee due process before the State can deprive a person of a constitutionally protected interest in liberty or property. At its core, due process requires notice and an opportunity to be heard *prior* to the deprivation, unless there are exigent circumstances.¹ However, where a constitutionally protected liberty or property interest is not at stake, then the Constitution does not require due process.

As an initial matter, Senate Bill 556, as introduced, on its face does not *seem* to deprive a person of a constitutionally protected interest in possessing real property. This is because the bill requires that there be no lease agreement or tenancy relationship between the owner and removed occupant, and that the occupant have no authorization to remain on the property or that the occupant unlawfully entered the property to begin with.² Proposed RP § 14-132.1(a). If this is indeed the case, then a court is unlikely to find that the bill is unconstitutional on its face. However, there could be factual scenarios where an occupant may not be authorized to be on the property and have no tenant relationship with the requestor, but still have some type of property interest and thus fall under the scope of the bill. For example, this may arise with tenants of a former owner who sold the property and thus there is no tenant relationship “with the person claiming possession,” (proposed RP § 14-132.1(a)(5)), or residents or former homeowners who may have some equitable rights, or a trespasser who gains a possessory interest via adverse possession. It is also possible that a court could find that the bill would implicate a protected property interest in possessing *personal* property, since the bill allows for the removal of any personal property found on the premises and immunizes the sheriff and requestor against liability for destruction or loss of personal property. Proposed RP § 14-132.1(g), (i). It is not clear to me what the disposition of the removed property would be under the bill, but any deprivation of the personal property, even a temporary one, must also be subject to due process. *Todman v. Mayor & City Council of Baltimore*, 104 F.4th 479, 491, n.1 (4th Cir. 2024). For these reasons, I cannot definitively conclude whether the bill, as currently written, would ever deprive a person of a constitutionally protected property interest.

Regardless, I think there is a significant risk that upon implementation the bill could be mistakenly or maliciously applied against an occupant who *does* have a protected interest in

¹ *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976); *Todman v. Mayor and City Council of Baltimore*, 104 F. 4th 479, 488 (4th Cir. 2024); *United States v. James Daniel Good Real Prop.*, 510 U.S. 43, 53 (1993).

² *See Forcier v. Binette*, No. CV 16-121S, 2017 WL 979028, at *11 (D.R.I. Jan. 18, 2017), *report and recommendation adopted*, No. CV 16-121 S, 2017 WL 963188 (D.R.I. Mar. 13, 2017) (concluding that there was no constitutionally protected property interest where individual was removed from uninhabitable building that she first occupied in good faith under a lease that turned out to be fraudulent).

possessing the property, e.g., against a holdover tenant who had a verbal lease agreement, and that in such a scenario, the bill does not afford adequate procedural due process protections.

First, Senate Bill 556, as introduced, presents a risk of a court finding it calls for inadequate notice. “Notice must be ‘reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.’” *Todman*, 104 F. 4th at 488 (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)). The bill contains two types of notice. To be eligible to request removal, a requestor must have previously “directed” the occupant to leave the property, but the bill does not require any certain form, content, or timing for the notice a requestor must give to the occupant before requesting removal. Proposed RP § 14-132.1(a). Next, upon verifying a request, the sheriff must “without delay, serve notice to immediately vacate the property to the occupant” and “deliver possession of the property to the requestor.” Proposed RP § 14-132.1(d). The sheriff’s notice is provided at the same time as the immediate removal of the occupant (unless the occupant is not present at the time of service) and delivery of possession of the premises to the requestor. Providing notice at the time of removal/repossession is not really “pre-deprivation” and does not afford any meaningful opportunity for the occupant to contest it prior to being deprived of the property. In the civil forfeiture context, the U.S. Supreme Court has said that “the Due Process Clause requires the Government to afford notice and a meaningful opportunity to be heard *before* seizing real property,” *James Daniel Good Real Prop.*, 510 U.S. at 62 (emphasis added).³ The Supreme Court has even required prior notice before a person’s household items could be repossessed pursuant to a replevin action. *Fuentes v. Shevin*, 407 U.S. 67, 81 (1972). Thus, it is likely that a court would require prior notice in this situation, assuming the occupant had a possessory property interest.⁴

Second, a court would likely determine that Senate Bill 556, as introduced, does not contain adequate methods for a removed occupant to contest the removal. “[D]ue process requires that a person at risk of deprivation receive a meaningful opportunity to be heard before that deprivation becomes final.” *Todman*, 104 F.4th at 490. An “opportunity to be heard” can take many forms and need not always be a full evidentiary hearing. *Id.* A court analyzing the constitutionality of the occupant removal process described in Senate Bill 556 would apply a flexible balancing test, weighing the (1) the occupant’s interests; (2) the risk of an erroneous deprivation through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the State’s and public’s interest, including the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *Mathews*, 424 U.S. at 335.

³ *Accord Culley v. Marshall*, 601 U.S. 377, 384 (2024) (“Under the Due Process Clause of the Fourteenth Amendment as interpreted by this Court, States ordinarily may not seize real property before providing notice and a hearing.”).

⁴ In addition, Senate Bill 556 does not dictate the contents of the notice, but directs that it may be hand delivered or prominently posted on the front door or other entry to the property. Depending on how implemented by a property owner and sheriff, the content of the two notices could be inadequate if they do not reasonably convey information concerning the removal and how to avoid it. *See Todman*, 104 F.4th at 488 (concluding that a warning about the potential for personal property abandonment located on the back of a mailed warrant of restitution and printed in small print two-thirds of the way down was inadequate notice).

Personal interests: Here, an occupant could possibly be deprived of a possessory interest in residential real property, which is a very weighty interest. Sheriff removal under the bill could also carry serious collateral consequences that also affect protected interests, such as the loss of liberty via arrest (proposed RP § 14-132.1(f)) or the loss of or damage to personal property (proposed RP § 14-132.1(i)).

Risk of erroneous deprivation: To evaluate the risk of erroneous deprivation, a court would look at the processes required by the bill and whether any additional procedures could mitigate the risks of erroneous deprivation. In *Fuentes v. Shevin*, the U.S. Supreme Court analyzed two states' prejudgment replevin statutes, which authorized the seizure of consumer goods if a seller filed an ex parte complaint with the court, posted a bond, alleged entitlement to the specific goods, and opened himself to possible liability in damages if he is wrong. 407 U.S. 67, 83 (1972). The statutes provided notice at the time of the seizure and no pre-deprivation hearing. The Court determined those procedures were inadequate and "hardly a substitute for a prior hearing, for they test no more than the strength of the applicant's own belief in his rights." *Id.*

Here, Senate Bill 556, as introduced, calls for the following procedures:

- the requestor must provide a copy of government identification, evidence that they own the property, and evidence of agency where applicable;
- the request must be signed under penalty of perjury;
- the sheriff is required to verify the requestor is the property owner or the owner's authorized agent; and
- after removal, an occupant can bring a suit for wrongful removal, and if successful, can be restored to possession and receive damages.

Proposed RP § 14-132.1(b), (c).

The occupant gets no opportunity for a pre-removal hearing of any sort, or even a chance to explain to the sheriff why he or she may be lawfully on the property before removal. Nor are there any other procedures to ensure that the occupancy is indeed unlawful. Even though the bill, as introduced, contains certain criteria a requestor must meet before making a removal request, such as absence of a tenancy relationship and no pending litigation over the property (proposed RP § 14-132.1(a)), the bill does not require that the requestor provide evidence that they meet the criteria or require the sheriff to verify the criteria are met. Thus, as in *Fuentes*, there is a risk that request is improper and/or that a person who is entitled to be on the premises will be unlawfully removed. For example, this situation could arise when legal tenants with an oral lease agreement or with a written agreement withheld by the landlord are victims to bad faith requests from an owner. See Letter of Opposition to Senate Bill 556 to the Honorable William C. Smith, Jr. from Assistant Attorney General Kira Wilpone-Welborn, Consumer Protection Division (February 4, 2025), at 2. In addition, a post-deprivation wrongful removal lawsuit is available only if the occupant initiates it, and a timely remedy is not guaranteed. In cases involving towing or seizure of vehicles, which, though an important property interest, is less serious than a person's residence, courts have held that the vehicle owner is entitled to post-deprivation hearings within one to two days of making a request, and hearings after five days or more have been found to be

unconstitutional.⁵ No such expedited hearing, either pre- or post-removal, is available under Senate Bill 556.

Of course, providing a hearing after notice and before removal could mitigate risks of wrongful removal, but there could potentially be other types of procedures or requirements short of a hearing that would also mitigate the risk by allowing the occupant to be heard.

The State's interests: Last, a court would examine the State's and the public's interests in efficiently and safely removing unlawful occupants, including trespassers and squatters, and protecting the rights of property owners, as well as the burdens entailed by including any additional procedures. Protecting property rights, removing unlawful occupants, and providing efficient removal processes that do not burden the judiciary are legitimate and serious government interests. But in view of the very weighty liberty and property interests of a lawful occupant who risks becoming homeless without notice, the requestor's property interests would likely not tip the scales. Especially when the burden of added procedures do not, at least in my view, seem too onerous. Of course, whether such procedures could be implemented by law enforcement and the judiciary under existing resources is a factual question and a policy matter.

Accordingly, it is my view that there is a significant risk that a court would find proposed RP § 14-132.1 to violate constitutional due process requirements if it were applied to scenarios where the occupant has a property interest. Of course, a reviewing court would have the benefit of a full record, including actual evidence of the burdens and costs involved and the strength of the State's interest, including the severity of the problem being addressed. So, it is possible that when balancing all of the relevant factors, a court could reach a different conclusion.

I hope this letter is responsive. Please let me know if you have further questions.

Sincerely,



Natalie R. Bilbrough
Assistant Attorney General

⁵ See *Towers v. City of Chicago*, 979 F. Supp. 708, 715, n.13 (N.D. Ill. 1997), *aff'd*, 173 F.3d 619 (7th Cir. 1999) (collecting cases); see also *Huemmer v. Mayor & City Council of Ocean City*, 474 F. Supp. 704, 711 (D. Md. 1979), *aff'd in part, rev'd in part*, 632 F.2d 371 (4th Cir. 1980) (noting that "failure to provide an opportunity to be heard at some meaningful time before the injury occasioned by the taking becomes final" is constitutionally deficient).

How bad is Maryland's housing affordability crisis? Ask this Baltimore couple.

Hallie Miller

2/11/2025 5:30 a.m. EST

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Christina Cikins and her fiancé, David Edge, at their home in Baltimore. They are facing homelessness after receiving an unexpected eviction notice. (KT Kanazawich for The Baltimore Banner)

On a Wednesday afternoon, around 3 p.m., Christina Cikins hangs up her phone. Another marathon call with social services.

Every benefits check for food stamps and cash assistance is more precious than the last. It's the steadiest cash flow for her and her fiancé, David Edge. Stretching each payment is more challenging lately: [heat](#), fuel, [eggs](#). Everything costs more.

For this couple, it's about to get harder. They soon must leave the three-story East Baltimore rowhouse where they share the \$1,500 rent with five roommates. And they haven't been able to find a place to live.

They've run smack into the region's — the nation's — housing affordability crisis.

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The U.S. lacks about 7.3 million homes for renters with extremely low incomes, according to estimates from [the National Low Income Housing Coalition](#). No state has enough homes to bridge this gap. Maryland pegs its overall shortfall at around 96,000 houses, with about one-third missing in the Baltimore area.

In the last year, affordable housing and taxes have overtaken crime as Marylanders' top problems, according to a [January Washington Post-University of Maryland poll](#).

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Baltimore pitched as affordable answer in costly housing region

Jan 29, 2025



Low housing supply is often cited as the culprit behind the affordability crisis, but other factors also play in. Last month, Maryland Attorney General Anthony Brown and the U.S. Department of Justice filed lawsuits alleging that large rental companies have colluded to keep prices high. (KT Kanazawich for The Baltimore Banner)

For about two years, Cikins, 45, and Edge, 55, could make it work in the East Baltimore rowhouse. Then last year it changed hands, and in an eviction filing the new owner accused the tenants of “squatting” illegally, a description they strongly disagreed with. A pro bono attorney helped Cikins and Edge negotiate an extended move-out.

But time is ticking. Another rental? They can’t find one they can afford or that will take them both.

Some landlords want tenants who earn three times the rent. Cikins shakes her head; she receives about \$1,000 a month in benefits. Her disabilities keep her from employment, and Edge’s work as a landscaper is slow in the winter. He’s struck out finding other jobs. Other landlords have rejected them based on their credit scores (“It’s not that we have low scores,” she said. “We have no scores.”)

Buy a place? Fat chance. The median price for a home in Baltimore [has reached a high of \\$220,000](#). Property taxes [have only gone one way](#), up, in a decade. Forget about the surrounding counties.

The couple got together later in life, after the death of Cikins' longtime partner and in Edge's newfound sobriety. Both have fallen on hard times, clawed themselves out of the depths. They found love on the other side.

But an unforgiving economy keeps creeping in on their happy ending. Medical bills from Cikins' health conditions, including lupus, pile up. A bout of COVID-19 left them both on shakier footing.



Christina Cikins' disabilities keep her from employment, and Edge's work as a landscaper is slow in the winter, making it difficult for the couple to find alternative housing. (KT Kanazawich for The Baltimore Banner)

They survived being hit by a car in 2023 while out walking, holding hands, on Broadway and Lanvale Street. Cikins went by ambulance to the Maryland Shock Trauma Center, lost bits of her teeth and endured months of physical therapy.

Now their one constant, a place to live that they can afford, is evaporating.

More than half of Maryland renters are “cost burdened,” paying more than 30% of their incomes on rent, according to state estimates. In Baltimore, the waitlist for public housing vouchers had swelled to [nearly 40,000 people as of fall 2023](#). Property conditions in such a tight market can [fall by the wayside](#).

Low housing supply is often cited as the culprit behind the affordability crisis — or, not enough homes, especially in the areas people want. But there are other factors. Last month [Maryland Attorney General Anthony Brown](#) and [the U.S. Department of Justice](#) filed lawsuits alleging that large rental companies have colluded to keep prices high.

Cikins wonders if nearby development got her landlord thinking about whether he could make some money. In October, he paid twice the home’s assessed value, Maryland records show.



A hole in the roof is causing leaks in Christina Cikins’ rental, which she says led to water damage and mold. (KT Kanazawich for The Baltimore Banner)

Maryland installed [a host of new tenant protections](#) last year, imposing strict limits on security deposits, for example, and raising the eviction filing fee.

This year, some state lawmakers seem to be rowing in a different direction. They’ve filed several bills that would hasten evictions for the so-called “squatters,” allowing sheriffs to immediately remove some tenants without a judge’s sign-off. Opponents called such proposals “constitutionally insufficient” at a January bill hearing and said the state could be liable for any due process violations.

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Soon after he bought the home, Cikins' landlord replaced the tenants' refrigerator, she said, and collected their money. She wishes she had held onto that cash. The landlord filed eviction papers in November, a move the tenants learned about later.

She and her fiancé have until the end of April to solve their housing puzzle.

"We have nowhere to go," she said. "Absolutely nowhere."



The U.S. lacks about 7.3 million homes for renters with extremely low incomes, according to estimates from the National Low Income Housing Coalition. Maryland pegs its overall shortfall at around 96,000 houses, with about one-third missing in the Baltimore area. (KT Kanazawich for The Baltimore Banner)

No family members can take them in. Cikins has considered the shelters, but most are single-sex. They'd both rather live on the street than be apart.

The two live modestly. They don't party, they keep their space clean, and they rarely have guests.

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They had hoped to get married this past October in Ocean City, at a Tyler Childers concert. All that is on hold now. In their room, sealed off from the rest of the world, his music plays on an endless loop.

They've sacrificed quality for affordability in this rooming house. What will the next place look like?

They're together, and they're on their own.

Hallie Miller

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Hallie Miller covers housing in the Baltimore region and beyond for The Baltimore Banner. She previously reported on city and regional services for The Banner's Better Baltimore series.



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