

SB0046_Fraud_Possession_of_Residential_Real_Proper

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR SB0046
Criminal Law – Fraud – Possession of Residential Real Property

Bill Sponsor: Senator Watson

Committee: Judicial Proceedings

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of SB0046 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists, and our Coalition supports well over 30,000 members.

Can you imagine being evicted from your own home? Home title theft is on the rise. What happens is that the thief forges phony documents to record a transfer of property ownership. Then, they often re-sell the home or rent it to other people. Trying to unravel this scheme and get your house back, and evict people who are now squatting in your home, is very difficult and time-consuming.

This bill would apply penalties to the perpetrator based on the number of violations, starting at a \$500 fine and 90 days in jail to a \$2,500 fine and up to 1 year in jail. It also allows the true owner of the property to submit an affidavit of stating that the thief is fraudulently in possession of the property and ensures that the true will not be evicted from their own property.

We support this bill and recommend a **FAVORABLE** report in committee

LR0913 Squatter Law.pdf

Uploaded by: Delna Gray

Position: FAV

Bill No.: _____
Requested: _____
Committee: _____

Drafted by: Chaney
Typed by: Sumer
Stored – 11/04/24
Proofread by _____
Checked by _____

By: **Senator Watson**

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Fraud – Possession of Residential Real Property**

3 FOR the purpose of prohibiting a person from possessing or claiming a right to possess
4 residential real property the person does not lawfully possess or own, with the intent
5 to defraud another; authorizing the owner of certain residential real property to file
6 a certain sworn affidavit and requiring a sheriff to remove a certain person from
7 residential real property under certain circumstances; providing this Act does not
8 prohibit the owner of residential real property from filing a wrongful detainer action;
9 and generally relating to fraudulent possession of residential real property.

10 BY adding to

11 Article – Criminal Law
12 Section 8–906
13 Annotated Code of Maryland
14 (2021 Replacement Volume and 2024 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
16 That the Laws of Maryland read as follows:

17 **Article – Criminal Law**

18 **8–906.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 **(A) A PERSON MAY NOT, WITH INTENT TO DEFRAUD ANOTHER, POSSESS OR**
2 **CLAIM A RIGHT TO POSSESS RESIDENTIAL REAL PROPERTY THE PERSON DOES NOT**
3 **LAWFULLY POSSESS OR OWN.**

4 **(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR**
5 **AND ON CONVICTION IS SUBJECT TO:**

6 **(1) FOR A FIRST VIOLATION, IMPRISONMENT NOT EXCEEDING 90**
7 **DAYS OR A FINE NOT EXCEEDING \$500 OR BOTH;**

8 **(2) FOR A SECOND VIOLATION OCCURRING WITHIN 2 YEARS AFTER**
9 **THE FIRST VIOLATION, IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT**
10 **EXCEEDING \$1,000 OR BOTH; AND**

11 **(3) FOR EACH SUBSEQUENT VIOLATION OCCURRING WITHIN 2 YEARS**
12 **AFTER THE PRECEDING VIOLATION, IMPRISONMENT NOT EXCEEDING 1 YEAR OR A**
13 **FINE NOT EXCEEDING \$2,500 OR BOTH.**

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

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

17 **(II) A REMEDY IS AVAILABLE UNDER TITLE 8 OF THE REAL**
18 **PROPERTY ARTICLE.**

19 **(2) THE OWNER OF RESIDENTIAL REAL PROPERTY IN THE**
20 **POSSESSION OF ANOTHER ALLEGEDLY IN VIOLATION OF SUBSECTION (A) OF THIS**
21 **SECTION MAY SUBMIT A SWORN AFFIDAVIT TO THE SHERIFF FOR A COUNTY IN**
22 **WHICH THE PROPERTY IS LOCATED STATING THAT THE PERSON IS FRAUDULENTLY**
23 **IN POSSESSION OF THE PROPERTY.**

24 **(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A**
25 **SHERIFF SHALL REMOVE A PERSON IN POSSESSION OF RESIDENTIAL REAL**
26 **PROPERTY AFTER RECEIVING AN AFFIDAVIT SUBMITTED UNDER PARAGRAPH (2) OF**
27 **THIS SUBSECTION AND RETURN POSSESSION OF THE PROPERTY TO THE OWNER.**

1 **(II) A DEPUTY SHERIFF MAY NOT REMOVE A PERSON IN**
2 **POSSESSION OF RESIDENTIAL REAL PROPERTY FOLLOWING THE FILING OF AN**
3 **AFFIDAVIT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IF THE PERSON IN**
4 **POSSESSION PRODUCES EVIDENCE OF LAWFUL POSSESSION OF THE PROPERTY TO**
5 **THE LAW ENFORCEMENT OFFICER.**

6 **(D) THIS SECTION DOES NOT PROHIBIT THE OWNER OF RESIDENTIAL REAL**
7 **PROPERTY FROM FILING A SUIT UNDER § 14–132 OF THE REAL PROPERTY ARTICLE.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2025.

SB46 Office of the Sheriff

Uploaded by: Delna Gray

Position: FAV



OFFICE OF THE SHERIFF

Prince George's County, Maryland

John D.B. Carr
Sheriff

Senator Ron L. Watson, Jr., Ph. D.
James Senate Office Building
11 Bladen Street
Annapolis, Maryland 21401

Dear Senator Watson,

I am writing this letter to express my support for Senate Bill 46, the Squatter Protection Law of 2025. This law would prohibit a person from possessing or claiming a right to residential real property that the person does not lawfully possess or own.

As the Sheriff of Prince George's County, I am acutely aware of the urgency of this issue. My state constitutional duty is to protect citizens by executing court-ordered warrants for restitution from unlawful entry into vacant homes. Prince George's County homeowners pay property taxes that are essential to fund the daily operation of our government, and we must ensure that they are not victimized by offenders who unlawfully break in and occupy their homes without permission. This bill will provide an easier way for homeowners to remove unlawful offenders without enduring unnecessary legal expenses, court delays, and potential property damage.

Our responsibility is to ensure that residents are safe and that their constitutional right to protect their private property is maintained. The importance of Senate Bill 46 cannot be overstated in this context. That is why I enthusiastically support this bill and request its passage without delay.

Sincerely,

John D.B. Carr
Sheriff

SB46 Resident of Bowie

Uploaded by: Delna Gray

Position: FAV

Testimony in Support of SB 46
Patrice Onwuka
A resident of Bowie, Maryland

Thank you to the chairman and committee for allowing me to testify today.

My name is Patrice Onwuka. I am a wife and mother of three boys. We reside in Bowie, MD. I am also the Director of the Center of Economic Opportunity at Independent Women. I am pleased to testify today in support of Senate Bill 46.

As a homeowner in this state, I am deeply worried about the growing presence of squatters. The rising trend of unauthorized individuals occupying property they do not own or rent presents a violation of property rights for homeowners, a blight to neighborhoods, and a costly nuisance for our communities.

I have had my own terrifying run-in with a squatter, and that experience still rocks me today. In 2023, when my husband and I were in the market to purchase a home, we toured a vacant single-family home in the Carney area of Baltimore County. This property was located in a quiet, middle-class residential neighborhood.

I wandered to the basement while my husband and the real estate agent were in another part of the house. As I approached the steps, I happened to catch a glimpse of movement reflected in the basement window. I assumed it was a cat moving about the basement, but out of caution I said "hello." Then, I heard a louder shuffling and realized it was not an animal. Yes, it was not an animal but an unauthorized male occupying the basement of the property. I was terrified.

Luckily, my husband and the agent came to get me. We immediately ran out of the house, fearful that he could have been armed or could have assaulted us. The real estate agent confirmed that no one should have been living in the property. I shudder to think what might have happened had I not lingered at the top of the steps for a moment. As a woman, I could have easily been overpowered and harmed by a man who had no authority and no permission to live in a house on the market for sale.

This was a jarring experience that could have led to a violent outcome. However, squatting incidents are becoming more common as individuals willingly flout the law and target livable spaces to take up residence. Mark Miller, senior attorney in Pacific Legal Foundation's Property Rights practice [noted](#) last year that squatting is "getting worse because of the lack of housing supply."

Right here in Maryland, there are chilling stories. A Prince George's County couple had just signed a contract with a bank to buy a vacant foreclosed home when the wife happened to see other people moving in. Another real estate agent [told local news](#) of a dozen similar stories of squatters occupying vacant homes for sale. A Beltsville woman [returned home](#) from vacation to find a couple lying in her bed, and all of her possessions totaling \$49,000 were gone.

Influencers are taking to social media with tips for squatting to popularize and normalize this activity.

Imagine, as a homeowner you return home from vacation or just purchased a house and find that someone else has occupied it. Your only recourse is to try to get them evicted, a process that can take weeks or months. As my examples illustrate, this can happen to anyone.

Trespassing is a violation of property rights, but it's more than a trivial legal issue. Squatters can damage properties, including those on the market to be sold, creating costly headaches for homeowners and making it difficult to sell vacant properties regardless of the damage or hardship that causes. Property values suffer when squatters, who have no incentive to maintain the property or may engage in other illegal activities, occupy property owned by someone else.

The challenge is evicting squatters quickly. For some jurisdictions such as Maryland, there is no legislation outlawing squatting or there is no clear legal path to have the trespassers removed expeditiously. These wrongdoers know that courts can move slowly on evictions. Furthermore, penalties are not strong enough to deter this activity. This emboldens squatters.

I'm pleased that Senator Ron Watson has introduced SB 46 to tackle this issue. This bill prohibits squatting and empowers homeowners to engage law enforcement to remove squatters. This is a welcomed step that fights to protect Marylanders from the devastating toll of squatting. I urge this committee and the entire legislature to pass SB46.

SB 46 - Possession of Property - FAV - REALTORS.pd

Uploaded by: Lisa May

Position: FAV



Senate Bill 46 – Criminal Law - Fraud - Possession of Residential Real Property

Position: Support

Maryland REALTORS® supports SB 46, which addresses the fraudulent real estate practice of “squatting.”

Within the past year, REALTORS® have reported increased incidents of squatting in residential properties, typically those that are vacant or listed for sale or rent, but also those where an owner is temporarily away. Scammers that have no legal rights to the property illegally occupy these residences.

Often, they will also produce forged leases or other documents which on initial review might indicate they have a right to occupy the residence. When these documents are presented to law enforcement responding to the squatting situation, it can be difficult to determine who has rightful ownership. As a result, property owners are told that this is a matter for the courts, and it may be weeks or months before the property is restored to them.

SB 46 would provide recourse to affected property owners by allowing them to sign an affidavit asserting their rightful possession of the property. This provides a basis for law enforcement to remove illegal occupants in an expedited manner. The bill also provided financial penalties for those illegally occupying the property.

When property owners are victimized by fraudulent activity, it is essential that their properties are restored to them in the quickest and easiest process possible. SB 46 provides this to current and future homeowners and renters who have been victims of squatters, and we ask for your favorable report.

**For more information contact lisa.may@mdrealtor.org or
christa.mcgee@mdrealtor.org**

SB46

Uploaded by: Ron Watson

Position: FAV

January 17, 2025

Hearing Testimony by Bill Sponsor Senator Ron Watson, Ph.D.

SB46 Criminal Law – Fraud – Possession of Residential Real Property

Good afternoon, Chair Smith and Vice Chair Waldstreicher, and members of the Committee. Senator Ron Watson, representing the 23rd Legislative District and I am here to ask your support for Senate Bill 46, the “Squatter Protection Law of 2025”.

The purpose of this bill is to create a law in Maryland to prevent criminals from breaking into homes and living rent-free while the homeowners have no way to get back their homes unless they go through a lengthy and costly process. Not only is this unfair to the homeowner but it is an injustice. This homeowner pays property taxes that help generate revenue for the state and local government and ideally, state and local governments should make it easy for property owners to swiftly remove squatters and have them face both civil and criminal penalties. The squatter is a criminal trespasser just like any other criminal and should be treated as such. Instead, homeowners are told by police that they can't do anything but instead, homeowners are forced to go through court to remove the trespasser. As you know, evicting a tenant costs lots of money and time with hiring an attorney and the cost of a hotel for the homeowner to live while someone is occupying their home. Homeowners end up waiting weeks for a court date and another 2 months for the Sheriff to remove the criminal. That could be 2 to 4 months without access to their home. We must do something to fix this issue now. SB 46 provides the help our homeowners need!

Under Senate Bill 46, a property owner can request their local Sheriff to immediately remove a squatter from their property with a sworn affidavit. It also creates penalties for those who engage in squatting and allows the homeowner to sue the squatter for damages.

Several other states (FL, GA, WV, etc.) passed legislation last year to prevent squatters and I implore Maryland to do the same. Don't allow Maryland to be a state that makes it easy for squatters to live rent-free and harm our homeowners while negatively impacting our housing market.

One Maryland homeowner, Darryl Brown, told the press that he regrets ever buying a rowhouse in Southwest Baltimore because it turned into a nightmare with multiple unsuccessful legal battles to evict squatters.

Mr. Brown called the police to remove squatters who had moved in while he was fixing up the house and the police said, “There's really nothing that you can do. The only thing you can do is go downtown.” So, he turned to the courts, writing an emergency petition for eviction because the squatters were stealing electricity and using drugs, but a judge denied it because there was no provision for an expedited trial.

Mr. Brown was confused but he did not give up. The court battle continued as the court denied the eviction a second time and eventually, he was able to get the judge-ordered eviction, but more than two weeks passed, while the sheriff's office was backlogged with cases and unable to carry out the eviction. That eviction order had not been served yet when someone was murdered in his home and then the house was set on fire with the body still inside. This is a tragic case when a court delays justice, refuses to do the right thing, and allows Maryland homeowners to suffer the consequences of their inaction.

Mr. Brown said he learned that there is nothing a landlord can do and while he hopes for change, he's not optimistic. SB 46 provides the needed change that Mr. Brown and other Marylanders are hoping for and if this committee will favorably pass SB 46, we will stop squatters in Maryland.

Today, I have a panel of witnesses like my constituent, Ms. Patrice Onwuka, who will tell you her story when she encountered a squatter. And the Maryland Realtors will testify in support of the bill and the damage that squatters have caused. In addition, I would like to submit for the record a letter of support from Prince George's County Sheriff Carr who is all too familiar with squatters in my county and the difficulty homeowners face in removing them. So, let's stop the squatter scam and protect our homeowners by passing SB 46 out of this committee favorably. Thank you.

SB 46 - Written Testimony UNF - SENATE.pdf

Uploaded by: Jennifer Mercer

Position: UNF



SB 046 - Criminal Law - Fraud - Possession of Residential Real Property
Hearing before the Senate Judicial Proceedings Committee,
January 21, 2025, 2:30 PM
Position: Unfavorable

The Pro Bono Resource Center of Maryland (“PBRC”), an independent 501(c)(3) non-profit organization, is the statewide thought leader and clearinghouse for pro bono civil legal services in Maryland. As the designated pro bono arm of the MSBA, PBRC provides training, mentorship, and pro bono service opportunities to members of the private bar and offers direct legal services to over 6,200 clients annually.

In May 2017, with a grant from the Maryland Judiciary’s Access to Justice Department, PBRC launched the **Tenant Volunteer Lawyer of the Day (TVLD) Program** in Baltimore City Rent Court to provide day-of-court legal representation to tenants who appear unrepresented for their proceedings. Since then, this continually expanding Program has allowed PBRC staff and volunteer attorneys to represent thousands of low-income tenants in both Baltimore City and Baltimore County in multiple types of legal actions that could result in eviction.

While we sympathize with the situation that SB 046 is attempting to remedy, PBRC opposes SB 046 based upon its potential impact on some of our most vulnerable clients. We are concerned that the expedited procedure for regaining possession and potential criminal charges contained in SB 046 could be used to evict low-income individuals from their homes without any judicial oversight and will further the criminalization of poverty by subjecting Maryland’s most vulnerable individuals to criminal charges against which they have no means to defend themselves.

Under current Maryland law the rightful owner of a property can regain possession from an individual who is fraudulently claiming a right to possess the property by filing a “wrongful detainer” action under Real Property Code § 41-132. This law sets forth an expedited process for a residential property owner to regain possession while also providing the individual who is removed with a measure of due process that would be missing in any action brought under SB 046 – due process that is not only humane but constitutionally required prior to depriving an individual of their home.

PBRC attorneys have encountered numerous individuals who believed in good faith that they were renting from a legitimate landlord, only to find that they have been victimized by a scammer. The scam involves someone posing as the owner of a property, drafting a lease and collecting rent as a legitimate landlord would. Once the scam is discovered, the “renter” in this situation typically has no legal defense allowing them to remain in the property and cannot recover any “rent” paid. Under the procedure set forth in SB 046, they would also be in danger of being confronted by a law enforcement officer with no prior notice and required to produce evidence of a legitimate lease or be evicted immediately. **Eviction is a very serious matter, which is why our laws must provide for due process when it is a possibility.**

For the above reasons,
PBRC urges an UNFAVORABLE report on SB 046.

Please contact Katie Davis, Director of PBRC’s Courtroom Advocacy Project, with any questions.

kdavis@probonomd.org • 443-703-3049

1 21 25 SB 46 Fraud Poss Real Prop MOPD OPPOSE.pdf

Uploaded by: Kirsten Downs

Position: UNF



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: Senate Bill 46 – Criminal Law – Fraud – Possession of Residential Real Property

FROM: Maryland Office of the Public Defender

POSITION: UNFAVORABLE

DATE: January 21, 2025

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on Senate Bill 46.

Overview of Senate Bill 46

Senate Bill 46 aims to criminalize the unauthorized occupation of residential properties in Maryland. The bill allows property owners to submit an affidavit asserting their legal claim to the property. In response, law enforcement can remove the occupant without a court hearing.

Senate Bill 46 targets individuals unlawfully occupying properties, including rental scams and housing fraud victims. However, it provides no legal protections for those who might unknowingly fall victim to such schemes. Additionally, the bill fails to address the ongoing housing crisis in Maryland, which Governor Wes Moore has identified as a critical issue needing immediate attention, noting that over 50% of renters are cost-burdened, spending more than 30% of their income on housing in urban centers such as Baltimore City and Montgomery County.¹ This crisis has increased the risk of exploitation for those seeking immediate and affordable housing.

Recent data indicates a significant rise in housing scams, particularly in the rental market. The National Multifamily Housing Council (NMHC) survey revealed that 70.7% of rental housing providers experienced increased fraudulent applications and payments over the past year.² Similarly, TransUnion reported a nearly 30% increase in fraud triggers among rental applicants from March to August 2020.³ The Federal Bureau of Investigation (FBI) also warned of a spike in rental and real estate scams, attributing surging rents, home prices, and inflation in a competitive real estate

¹ Maryland Office of the Governor. "Housing Priorities." Maryland Governor's Office. Accessed January 17, 2025. <https://priorities.maryland.gov/pages/housing>.

² National Multifamily Housing Council. "Rampant Increasing Fraud Impacting Rental Housing Costs." NMHC Press Release, 2024. <https://www.nmhc.org/news/press-release/2024/rampant-increasing-fraud-impacting-rental-housing-costs/>.

³ TransUnion. "A Rise in Fraud Indicators Hits the Rental Industry During the Pandemic." TransUnion Newsroom, 2020. <https://newsroom.transunion.com/a-rise-in-fraud-indicators-hits-the-rental-industry-during-the-pandemic/>

market.⁴ These findings underscore the growing prevalence of housing scams, highlighting the need for increased vigilance among renters and property owners.

While the bill is intended to speed up the process of reclaiming properties, it raises significant concerns about due process and the potential for unjust outcomes, especially for vulnerable populations.

Overview of Maryland's Housing Crisis

Maryland is grappling with a significant housing shortfall, with over 120,000 units needed, including a deficit of nearly 96,000 affordable units, as highlighted in Governor Moore's 2024 housing assessment.⁵ This crisis is particularly pressing in urban centers like Baltimore and Montgomery County, where demand is exceptionally high and rents are soaring. The situation has left more than 50% of renters in the state cost-burdened, meaning they spend over 30% of their income on housing. As a result, many low-income renters find themselves in precarious housing situations, struggling to make ends meet.

Governor Moore has identified the housing shortage as a top priority, emphasizing the need for systemic solutions to increase affordable housing and stabilize the rental market. His administration has proposed investments in housing development and assistance programs, yet legislation like Senate Bill 46 undermines these goals by disproportionately targeting vulnerable renters instead of addressing root causes.

The Growing Prevalence of Housing Scams and Their Victims.

The Federal Trade Commission (FTC) and local authorities have reported a significant increase in housing scams, especially in Maryland's competitive rental market. Scammers create fake listings and pose as landlords to collect deposits for properties they do not own. Alarming, 6.4% of renters nationwide have fallen victim to these scams, affecting millions of Americans, particularly low-income renters who are disproportionately impacted.

Among the most vulnerable are low-income individuals seeking affordable housing, often enticed by below-market rents. Recently, the Maryland Department of Housing and Community Development issued a warning about online scams perpetrated by individuals falsely claiming to administer Section 8 Housing Choice vouchers, indicating that low-income renters are a primary target for these scams.

Additionally, racial minorities, particularly Black and Latinx renters, are overrepresented among victims due to systemic barriers and historical inequities that hinder homeownership. Elderly renters are also frequent targets, as they may be less familiar with the complexities of online rental processes. Furthermore, immigrants face increased vulnerability due to language barriers and a lack of knowledge about local laws, making them prime targets for scammers.

⁴ Federal Bureau of Investigation. "FBI Warns of Spike in Rental and Real Estate Scams." FBI Boston Press Releases, accessed January 17, 2025. <https://www.fbi.gov/contact-us/field-offices/boston/news/press-releases/fbi-warns-of-spike-in-rental-and-real-estate-scams>.

⁵ Governor Wes Moore, 2024 Housing Assessment, Annapolis: Maryland Governor's Office, 2024.

Penalizing Victims Without Legal Safeguards

Senate Bill 46 proposes removing occupants who lack lawful possession; however, many of these individuals are victims of housing scams, unknowingly occupying properties under false leases. Additionally, the bill does not address these victims' significant financial devastation, such as losing deposits or prepaid rent to scammers. Furthermore, it leaves vulnerable renters, particularly those from low-income and communities of color, without access to legal assistance or representation, which exacerbates their already challenging situations.

Potential Impact of Criminalizing Housing Violations

Introducing criminal penalties for housing violations, as proposed in Senate Bill 46, can have adverse effects on low-income renters and families, both in the short and long term:

Immediate Consequences: The expedited eviction process poses a significant risk of wrongful eviction, as it may lead to the removal of tenants who hold legitimate leases or have been misled without giving them sufficient opportunity to present their case. Additionally, sudden evictions can result in residents losing access to their personal belongings, which not only compounds their financial troubles but also leads to emotional distress.

Long-Term Consequences: Individuals affected by criminal records often encounter difficulties in accessing housing and employment, which can result in ongoing cycles of poverty and instability. This is particularly true for Black communities. The ACLU of Maryland has reported that criminal penalties linked to housing laws disproportionately affect Black renters, worsening their financial and housing stability.⁶ The increasing occurrence of housing scams poses a threat of criminal charges, further deterring people from pursuing rental options. This discouragement not only exacerbates housing insecurity but also contributes to a rise in homelessness.

The Lack of Judicial Oversight Before Occupant Removal

Senate Bill 46 requires the sheriff's office or law enforcement to make a legal determination about the lawfulness of occupancy without judicial oversight, raising significant concerns about due process and equitable enforcement.⁷ Law enforcement officers are not trained to assess the validity of complex legal claims,⁸ such as the authenticity of leases or the nuances of property law, typically adjudicated in court.⁹ This practice risks wrongful removals, disproportionately affecting vulnerable populations like low-income renters, racial minorities, and victims of scams who may struggle to prove lawful possession. Without judicial oversight, such actions undermine the fairness of the legal process, bypassing the checks and balances that courts provide to protect the rights of all parties involved.

⁶ ACLU Maryland. *Criminalizing Poverty: How Evictions and Fines Trap Black Communities*. Baltimore, MD: ACLU Maryland, 2023

⁷ Urban Institute. *The Risks of Eviction Without Judicial Oversight*. Washington, D.C.: Urban Institute, 2023.

⁸ People's Law Library of Maryland. "Evictions and the Role of Law Enforcement." Accessed January 17, 2025. <https://peoples-law.org>

⁹ American Bar Association. *Judicial Oversight and Due Process in Eviction Cases*. Washington, D.C.: ABA Publishing, 2023

Collateral Consequences of Immediate Removal of Occupants

Removing tenants without providing adequate time to secure alternative housing or manage their belongings can lead to several significant consequences:

- **Increased Risk of Homelessness:** Immediate eviction leaves tenants with limited options, often resulting in temporary shelter use or homelessness. This abrupt displacement disrupts lives and can exacerbate existing vulnerabilities
- **Loss of Personal Belongings:** Without sufficient time, tenants may be unable to retrieve or arrange storage for their possessions. This can lead to the loss of essential items, further compounding the trauma of eviction.
- **Emotional and Psychological Distress:** The sudden upheaval associated with immediate eviction can cause significant stress, anxiety, and other mental health challenges, impacting overall well-being.
- **Negative Impact on Employment and Education:** Displacement can disrupt employment due to relocation challenges and affect children's education, leading to broader socioeconomic instability.
- **Legal and Financial Repercussions:** Evictions can appear on a tenant's record, making it difficult to secure future housing and potentially affecting credit scores, which can have long-term financial implications.

Providing tenants with adequate notice and time to secure alternative housing and manage their belongings is crucial to mitigate these adverse outcomes and promote fair housing practices.

Collateral Racial Disparities Created by Senate Bill 46

The impact of housing challenges on racial minorities is both profound and alarming. In Maryland, Black and Latino renters, already grappling with significant income disparities, find themselves more vulnerable to scams as they often rely on informal networks or unverified platforms for housing.¹⁰ This economic vulnerability is exacerbated by systemic barriers rooted in historical redlining and housing discrimination, which have disproportionately affected these communities, making them heavily reliant on rental housing and more susceptible to fraud and displacement.^{11 12} Moreover, the threat of increased housing instability looms large, as marginalized communities—already at a heightened risk of eviction—may face devastating displacement under proposed legislation like Senate Bill 46, lacking the resources to find alternative housing. Compounding this crisis, immigrant communities often steer clear of law enforcement and legal processes out of mistrust, leaving them defenseless against wrongful evictions and further trapping them in a cycle of instability.¹³

Furthermore, data reveals that policies incorporating criminal elements related to housing violations often lead to higher eviction rates among minority and low-income populations. This is exacerbated

¹⁰ Maryland Center on Economic Policy. *Racial Disparities in Housing and Wealth in Maryland*. Annapolis, MD: Maryland Center on Economic Policy, 2024.

¹¹ Urban Institute. *The Legacy of Redlining: Housing Discrimination and Systemic Inequities*. Washington, D.C.: Urban Institute, 2023.

¹² National Low Income Housing Coalition. *Out of Reach: The High Cost of Housing in America*. Washington, D.C.: NLIHC, 2024. <https://nlihc.org>.

¹³ ACLU Maryland. *Immigrant Rights and Housing Stability*. Baltimore, MD: ACLU Maryland, 2024.

by the economic disparities faced by Black families, who are more vulnerable to the negative consequences of expedited eviction processes and criminal penalties, making them particularly susceptible to these new challenges.^{14 15}

Existing Legal Protections for Property Owners

Maryland's current legal framework provides property owners with civil remedies to address unauthorized occupancy through wrongful detainer actions. Under Maryland Real Property Code §14-132, a wrongful detainer is defined as holding possession of real property without the right of possession.¹⁶ Property owners can file a complaint in the District Court of the county where the property is located. The court then issues a summons requiring the occupant to appear and show cause why possession should not be restored to the owner. If the court finds in favor of the property owner, it orders the sheriff to return possession to the complainant. Maryland's current wrongful detainer laws are sufficient to protect property owners who encounter illegal residents on their property because they provide a clear, civil legal process for owners to regain possession.¹⁷ This ensures due process for both the owner and the occupant, balancing the need for property owners to reclaim their property with protections against wrongful eviction.¹⁸ The existing framework effectively addresses such disputes without imposing criminal penalties or exacerbating housing inequities.¹⁹

While Senate Bill 46 seeks to provide property owners with a more efficient means of reclaiming possession of their property, it raises significant concerns regarding due process and the potential for disproportionate adverse effects on low-income renters and Black families in Maryland. It is imperative to balance the rights of property owners with the protections afforded to tenants, ensuring that any legal measures do not inadvertently perpetuate systemic inequities or contribute to housing instability.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on Senate Bill 46
Submitted by: Maryland Office of the Public Defender, Government Relations Division.**

**Authored by: Kirsten Gettys Downs
Director of Systemic Reform
Maryland Office of the Public Defender
Kirsten.Downs@maryland.gov**

¹⁴ Legal Aid Bureau of Maryland. The Racial Impact of Evictions in Maryland. Baltimore, MD: Maryland Legal Aid, 2024.

¹⁵ Maryland Center on Economic Policy. Racial Disparities in Housing and Wealth in Maryland. Annapolis, MD: Maryland Center on Economic Policy, 2024

¹⁶ Maryland Real Property Code §14-132. "Wrongful Detainer Actions." Accessed January 17, 2025. <https://mgaleg.maryland.gov>.

¹⁷ Maryland District Court. Landlord and Tenant Cases: A Procedural Guide for Property Owners. Annapolis, MD: Maryland Judiciary, 2024

¹⁸ Maryland Legal Aid. Tenant Rights and Responsibilities in Maryland. Baltimore, MD: Legal Aid Bureau of Maryland, 2024

¹⁹ Maryland Center on Economic Policy. Balancing Property Rights and Housing Equity in Maryland. Annapolis, MD: Maryland Center on Economic Policy, 2024

SB46 Criminal Trespass Wrongful Detainer PJC UNF.

Uploaded by: Matt Hill

Position: UNF



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SB 46: Criminal Law – Fraud – Possession of Real Property

Hearing before the Senate Judicial Proceedings Committee on January 21, 2025

Position: OPPOSE (UNF)

The Public Justice Center (PJC) is a nonprofit public interest law firm that stands with tenants to protect and expand their rights to safe, habitable, affordable, and non-discriminatory housing and their rights to fair and equal treatment by Maryland's landlord-tenant laws, courts, and agencies. The PJC advocates for systemic changes to build a just society. Our focus is on utilizing legal avenues to remove barriers that impede economic and racial equity.

PJC opposes SB 46 and asks for an unfavorable report because the bill would ultimately make each Sheriff a street judge and jury – determining on the streets of our neighborhoods who has the right to possess a disputed home. This procedure unconstitutionally deprives residents of the right to notice and a meaningful opportunity to be heard on whether they have a right to rent or otherwise occupy the property

SB 46 raises serious Due Process concerns

We have seen far too many clients who have been victims of scams, predatory landlords, and owner-management disputes. For example, some of our clients find a home online, are taken on a tour of the property, sign a lease, pay a security deposit and first's month's rent, and are given keys to the property. Two weeks later they get a knock on the door and are told that the rightful owner of the property did not authorize leasing the property. In another variation on this scheme, we have found instances in which a property management company claimed that they had the right to lease the property, but the owner disagreed. The tenant-resident is caught in the middle. Still in other cases, we have seen some unscrupulous landlords enter into a verbal agreement to lease and take the tenant's money, but after the tenant enters the property and starts to complain about serious and substantial defects, the unscrupulous owner claims that there was never a landlord-tenant relationship.

In each of these scenarios, SB 46 sets the Sheriff up as a street judge and jury to adjudicate who has lawful possession of the property without any notice in advance, legal counsel for the resident, or meaningful opportunity to be heard.

While we recognize that this bill is intended to address the issue of "squatters," these harmful side effects and deprivations of constitutional due process will hurt Maryland residents who are not squatters. A person who occupies land with the permission of the owner, or who has a good faith belief in having obtained ownership or

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other possessory right is not a squatter.¹ Oftentimes, persons *believed* to be “squatters” have legally protected reasons to be on the property as described in the examples above. The remedy for the owner in each of these cases is to file a Wrongful Detainer complaint in the District Court, which is set on an expedited scheduling track.

SB 46 furthers the harm and trauma victims of fraud endure

In Baltimore City, PJC very often litigates wrongful detainer claims where the renter believed they were renting the property from the rightful owner, but found later on they had been a victim of a rental scam. This is because vacant and unsafe homes are left untouched and unmonitored by their absentee owners, which allows individuals to break into these units and offer them up to desperate people looking for housing. For many of these victims, they are confused about what happened to them and it is only when they come to court for their wrongful detainer claim that they know what happened. By allowing a Sheriff to merely come unannounced and remove a person from, what they reasonably believed to be, their home is not equitable.

SB 46 further widens to distrust between the community and law enforcement

Authorizing Sheriffs to remove alleged squatters without judicial procedures is likely to result in many contentious interactions between police and alleged squatters. Not only would Sheriffs have to immediately remove someone from a property without notice or opportunity to be heard, this bill anoints them as judge and jury.

Public Justice Center **opposes SB 46**. If you have any questions, please contact C. Matthew Hill, Esq., hillm@publicjustice.org (410) 625-9409 Ext. 229.

¹ See, e.g., *Mele v. Russo*, 168 Misc. 760, 761, 9 N.Y.S.2d 203, 205 (Co. Ct. 1938) (“The respondent Mary Russo entered upon the lands in question by right as the wife of the owner. The occupancy thus commenced being lawful she cannot now be held to be a squatter or intruder.”).

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Position: UNF



Senate Bill 0046
Criminal Law - Fraud - Possession of Residential Real Property
Hearing in the Senate Judicial Proceedings Committee
Hearing on January 21, 2025

Position: Unfavorable

Maryland Legal Aid submits its written and oral testimony on SB0046 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 46.

SB 46 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 bona fide tenants as well as people and families who may have been fraudulently induced into moving into a property under an unauthorized lease agreement. Moreover, the bill would victimize these community members through sudden eviction without due process. Because SB 46 affords no notice to the occupants nor any meaningful opportunity to be heard, it would likely be unconstitutional as a matter of law and as applied. More importantly, the bill does not holistically address the "squatter" problem that is impacting property owners and renters alike.

SB 46 would irreparably harm our clients

In July 2022, our client moved into a rental home in Pikesville, Maryland, signing a lease with the owner and thereafter paying rent for several months. That fall, a woman whom our client had never met appeared at the property, insisting that she was the owner of the property and threatening to call the police if our client did not leave. When the Baltimore County police did arrive, our client showed her copy of the lease to the officers, who then took no action other than escorting the stranger off the premises. Next, that person filed a Wrongful Detainer action against our client, again claiming that she

was the owner and that our client had no lawful right of possession. In other words, the case alleged that our client was a squatter. In a trial proceeding, the plaintiff was unable to demonstrate that she held title to the property. In fact, during the pendency of the Wrongful Detainer case, the property was sold to a couple. It became apparent that the only reason to subject our client to allegations of squatting was to sell the property unencumbered by our client's bona fide lease.

In that case, because of the trial procedures involved in the Wrongful Detainer case, our client vindicated her rights and protected herself from a ploy in which, we suspect, the landlord used an unknown person to claim ownership and the right to police-assisted removal of all occupants. Under SB 46, our client may not have had any process or protection.

SB 46 ignores the fact that “squatters” may be victims of fraud

This bill takes aim at so-called squatters by prohibiting any person from possessing or claiming a right to possess residential real property that the person does not lawfully possess or own. This prohibition requires the element of intent to defraud another. A person who does so is subject both to criminal penalties in subsection (a), at pages 1-2, and to immediate extrajudicial eviction without notice under subsection (c)(2)-(3), at page 2.

Absent from SB 46 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.

Despite this context, SB 46 treats the erstwhile renter as a criminal unless and until she proves in a criminal court that she lacked the intent to defraud another. Predictably, she may face grave difficulty in proving lack of intent, particularly if she failed to immediately vacate the property after someone, whom she had never met and had no reason to believe, notified her that her lease agreement had not been authorized by the actual owner.

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 46.

SB 46 will spur non-judicial evictions of bona fide tenants

Beyond criminal punishment, SB 46 exposes occupants, lessees, and erstwhile renters to immediate extrajudicial eviction without notice or a court order. The bill includes an exception for lessees, whereby the extrajudicial eviction procedure does not apply if there is "a remedy available under Title 8 of the Real Property Article," i.e., the eviction procedures against tenants for Failure to Pay Rent, Tenant Holding Over, or Breach of Lease. However, SB 46 does not provide any notice or hearing procedures through which a person facing immediate eviction could demonstrate that the exception applies.

In substitution of due process in court, SB 46 allows property owners to submit their allegations to the local sheriff in an affidavit. On receipt of the affidavit, the sheriff *shall* then evict any occupant. Their only opportunity to be heard in this procedure arises when the sheriff has already come onto the property to carry out the eviction. At that late juncture, the occupant may "produce evidence of lawful possession" to stop the eviction. SB 46 does not prescribe any additional procedure such as involving the court for purposes of examining evidence or producing witness testimony. Thus, if a lessee is subjected to this process and cannot show their lease at the moment of eviction because they do not have a copy of the executed agreement, or because they are not home, SB 46 does not entitle them to any additional process before the sheriff completes the eviction. If the lessee does produce a lease agreement for the sheriff, but the owner contests the validity of the agreement, SB 46 neither requires the sheriff to halt the eviction nor provides additional evidentiary procedures in court. The abbreviated eviction process invites violations of individuals' constitutional right to due process.

SB 46 is trojan-horse legislation of the national conservative movement

SB 46 copies [model legislation](#) of the conservative policy network American Legislative Exchange Council (ALEC).¹ Extolled by Newt Gingrich as “the most effective organization” in spreading conservative policy to state lawmakers,² ALEC has pushed its “Stop Squatters Act” throughout the country and has found success in five Republican-controlled legislatures: Alabama, Florida, Georgia, Louisiana, and West Virginia.³

Recycling talking points about “squatter” social movements from decades past, ALEC is exploiting a generic fear of “squatting” to weaken existing summary ejection procedures and tenant protections at a time of rising public interest in expanding those protections. SB 46 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 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.⁴

What the policymakers ought to do instead

Instead of passing SB 46 or similar bills, the General Assembly and local policymakers should consider policies that focus on the root causes of the so-called squatter problem:

¹ ALEC, “Stop Squatters Act,” <https://alec.org/model-policy/stop-squatters-act>.

² Nick Penzenstadler et al., “What is ALEC? ‘The most effective organization’ for conservatives, says Newt Gingrich,” *USA Today* (April 3, 2019), <https://www.usatoday.com/story/news/investigations/2019/04/03/alec-american-legislative-exchange-council-model-bills-republican-conservative-devos-gingrich/3162357002>.

³ National Housing Law Project, “NHLP Releases Guidance Memo Regarding Anti-Squatting Legislation,” Oct. 22, 2024, <https://www.nhlp.org/nhlp-publications/nhlp-releases-guidance-memo-regarding-anti-squatting-legislation>

⁴ *Id.*

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- Require licensing for all rental property operators and managers and create a central, readily accessible look-up tool so that renters in the marketplace know who they are dealing with and whether that person is authorized to act on behalf of the actual owner of a property.
 - Require written leases for all tenancies. State law and several local codes require only owners of five or more units to use written leases.
 - Create registries within local housing agencies by which renters can register their tenancy information, which the agency can then cross-reference 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.

Maryland Legal Aid urges the Committee to issue a UNFAVORABLE report on Senate Bill 46.

If you have any questions, please contact:

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