



HB 202 - Criminal Law - Fraud - Possession of Residential Real Property
Hearing before the House Judiciary Committee,
January 21, 5, 1:00PM
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 HB 202 is attempting to remedy, PBRC opposes HB 202 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 HB 202 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 HB 202 – 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 HB 202, 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 HB 202.
Please contact Katie Davis, Director of PBRC's Courtroom Advocacy Project, with any questions.
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