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## **HB 252: Real Property – Actions for Wrongful Detainer – Required Postings**

**House Judiciary Committee Hearing, January 22, 2025**

**Position: OPPOSE (UNF)**

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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 change to build a just society and remove barriers that impede economic and racial equity.

**PJC opposes HB 252 because it effectively allows a landlord to obtain a Wrongful Detainer judgment and eviction even when the residents of the home at issue are renters.** Wrongful detainer is normally reserved for instances in which the owner of real property wants to reclaim possession of real property from someone who is not a tenant and who is not otherwise authorized to be in the property. The current law, Md. Code, Real Prop. § 14-132, facilitates exactly that process. Personal service is not required. The Sheriff need only post the complaint/summons on the property, and mail the complaint/summons to the current occupants, which is the minimum required by constitutional due process. The trial and the Sheriff's execution of any eviction normally proceed on an expedited basis.

HB 252 changes this process by allowing the owner to file a Wrongful Detainer action even when there is a tenant renter residing at the property, or even when the person in possession has possession pursuant to a court order, or even when another statute or rule provides an exclusive method for the owner to retake possession.

To avoid these limitations on the use of Wrongful Detainer, the owner would only need to post a sign saying that no trespassers is allowed. If such a sign is posted – even if the sign was later removed by an unscrupulous actor –, the property owner could use Wrongful Detainer to evict any tenant so long as the owner could show the tenant did not have a right to possession, regardless of any defense or protection normally provided by law, such as retaliation (RP § 8-208.1), landlord licensing (RP § 8-406), rent escrow (RP § 8-211), lead paint protection (RP § 8-211.1), warranty of habitability (RP § 8-212), illegal fees and charges (RP § 8-208(d)). This is a confusing and counter-intuitive provision that surely does not represent the sponsor's intent, but nonetheless is the likely practical impact of the bill.

While we appreciate the need for an owner to quickly obtain possession of their real property from someone is not authorized to be on the property, any provision for reclaiming possession must take into account the variety of situations in which the question of whether someone is a tenant may require the

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court to adjudicate the claims of the parties. 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 hear 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 examples, as long as a property owner at some point in time posts a property with a sign that prohibits trespassing – even if the sign was taken down by an unscrupulous actor – the property owner could attempt to sidestep any claim that the person is a tenant or has some other right to property. This goes too far in denying constitutional due process to renters who are not squatters or trespassers at the property.

Public Justice Center **opposes HB 252**. If you have any questions, please contact C. Matthew Hill, [hillm@publicjustice.org](mailto:hillm@publicjustice.org) (410) 625-9409 Ext. 229.