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HB 202: Criminal Law - Fraud - Conveyance, Lease, or Possession of Residential Real Property

Hearing before the House Judiciary Committee on January 21, 2025

Position: OPPOSE (UNFAV)

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.. Our focus is on utilizing legal avenues to remove barriers that impede economic and racial equity, through our various projects. **PJC OPPOSES HB 202 and requests an unfavorable report.**

On its face, **HB 202** seems to address the problem of the fraudulent scamming of prospective tenants. However, the real and desired goal of this bill is to address what is commonly called "squatting". **HB 202** raises grave constitutional concerns for Maryland residents and would allow for flagrant abuse by bad actors in the rental market. Additionally this bill removes the power to adjudicate legitimate legal questions and issues from the Courts and places it in the hands of law enforcement entities who functionally and legally cannot do what this bill requires from them. In short, HB 154 is an indirect attack on basic housing rights and protections.

HB 202 raises serious Procedural and Due Process Concerns

A person who occupies land with permission of the owner, or who does have a good faith belief in having obtained ownership or other possessory right is not a squatter.¹ Oftentimes, persons believed to be "squatters" have legitimate legally protected reasons to be on the property. In Maryland, when there is a question as to if an occupant is in possession of real property they have no legal claim to, a wrongful detainer claim is filed. These claims allow the occupant a notice of a hearing date, an opportunity to be heard by a judicial officer, and the ability to contest the landlord's claim for possession. This fulfills the baseline constitutional requirements of notice, hearing, and impartial decision-maker. Affording these basic procedures to a person facing expulsion from real property is critical because the U.S. Constitution requirement of procedural due process is that the hearing must generally be held before the deprivation occurs.²

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.").

² See *Zinermon v. Burch*, 494 U.S. 113, 132 (1990).

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HB 202 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.

HB 202 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 Sheriff's have to immediately remove someone from a property without notice or opportunity to be heard, this bill anoints them as fact finder, judge, and jury.

HB 202 provides easy cover for bad faith actors

Perhaps the most disturbing feature of the new squatting laws is one that very few will know about. **HB 202** would embolden slumlords to threaten to report tenants as squatters when they do not want to fix conditions on the property or worse. These types of threats of immediate removal will likely prompt plenty of unwanted occupants to vacate for fear of having the Sheriffs called to their residences.

Public Justice Center **opposes HB 202**. Public Justice Center is a member of the Renters United Maryland coalition. If you have any questions, please contact Albert Turner, Esq., turnera@publicjustice.org (410) 625-9409 Ext. 250.