

MARYLAND DEPARTMENT OF THE ENVIRONMENT

Land and Materials Administration

1800 Washington Boulevard · Suite 610 · Baltimore Maryland 21230-1719

410-537-3304 · 800-633-6101 · www.mde.maryland.gov



Thursday, March 2, 2023

9:30 a.m. – 11:30 a.m.

Google Meet

Lead Commission Distributed Meeting Material

- Lead Commission Distributed Meeting Material Cover Page
- Final Agenda 230302
- Draft Minutes 230202
- HB1110 Report
- Lead Poisoning Prevention Compliance Numbers FY 23 through Q2
- HB00036 - Real Property – Actions to Repossess – Proof of Rental Licensure_MMHA Suggested Amendments
- HB00036_DLS_FN
- HB00036FirstRead

MARYLAND DEPARTMENT OF THE ENVIRONMENT

Land and Materials Administration

1800 Washington Boulevard · Suite 610 · Baltimore Maryland 21230-1719

410-537-3304 · 800-633-6101 · www.mde.maryland.gov

LEAD POISONING PREVENTION COMMISSION

March 2, 2023 · 9:30 a.m. – 11:30 a.m. · Google Meet

Final Meeting Agenda

- Welcome and Introductions
- Approval of Minutes – February 2023
- Old Business
 - Next Meeting Reminder (see the last Agenda item below for the list of upcoming items)
 - Commission Membership Recommendation - Parent of a Lead Poisoned Child
- New Business
 - Introduction and Commitment of Governor Wes Moore
 - Introduction to Secretary Jacob Day of the Department of Housing & Community Development
 - HB1110 Updates - Environment - Lead Poisoning Prevention - Elevated Blood Lead Level (Tyler Abbott)
 - Childhood Blood Lead Surveillance Report Updates (Tyler Abbott)
 - Subcommittee Updates on Environmental Investigations (Paula Montgomery/Tyler Abbott)
 - MDE – Compliance and Enforcement (Fred Banks)
 - Review Transition Reports relating to MDE Lead Program (Ruth Anne Norton)
- Legislation/Pending Legislative Action Dates
 - HB0036/SB0100 - Real Property – Actions to Repossess – Proof of Rental Licensure
 - HB0079/SB0296 - Housing and Community Development - Whole-Home Repairs Act of 2023
 - HB0169/SB0144 - Public Utilities - Energy Efficiency and Conservation Programs - Energy Performance Targets and Low-Income Housing
 - HB0200/SB0181 - Budget Bill (Fiscal Year 2024)
- Agency Hot Topics/Current Events
 - **MDE** (Maryland Department of the Environment) Tyler Abbott
 - **MDH** (Maryland Department of Health) Cliff Mitchell
 - **MDAAP** (American Academy of Pediatrics, Maryland Chapter) Paul Rogers
 - **MSDE/OCC** (Maryland State Department of Education/Office of Child Care) Manjula Paul
 - **MIA** (Maryland Insurance Administration) Benita Cooper
 - **MD-DHCD** (Maryland Department of Housing and Community Development) Jack Daniels
 - **BC-DHCD** (Baltimore City Department of Housing and Community Development) Kathryn Taylor Taylor
 - **BCHD** (Baltimore City Health Department) Mary Beth Haller
 - **GHHI** (Green & Healthy Homes Initiative) Ruth Ann Norton
- Commissioner Comments and Updates
- Public Comments and Updates
- Next Meeting Reminder: Thursday, 04/06/23 9:30 a.m. – 11:30 a.m which includes the Agenda items below:
 - Introduction to Secretary Laura Herrera Scott of the Maryland Department of Health
 - MDE Update on Water Safety (Christina Ardito, Georgella Samu)
 - Daycare Discussion Progress (Ruth Ann Norton)
 - Findings on Environmental Investigations Subcommittee: Inconsistencies with Lead Testing

MARYLAND DEPARTMENT OF THE ENVIRONMENT

Land and Materials Administration

1800 Washington Boulevard · Suite 610 · Baltimore Maryland 21230-1719

410-537-3304 · 800-633-6101 · www.mde.maryland.gov

LEAD POISONING PREVENTION COMMISSION

February 2, 2023 · 9:30 a.m. – 11:30 a.m. · Google Meet

Draft Meeting Minutes

Documents Distributed:

- Final Agenda 230202
- Draft Minutes 230105
- MDE Lead Commission Calendar 2023
- LPPC Attendance 2022
- Legislative Bills -
HB36.HB79.HB169.SB100.SB144
- EJ & MDE
- 2023 CEB Violation Prez_
- FYI Email - Fw_ [EXTERNAL] [Leadnet]
\$150.0 million dollars for childhood lead poisoning prevention
- Lead Factsheets and XRF Factsheet - Spanish translation

Opening Welcome and Introductions:

Ruth Ann Norton called the meeting to order at 9:30 a.m. with welcome and introductions.

Members Present:

Jacob Benzaquen	Mary Beth Haller	Manjula Paul
Benita Cooper	Cliff Mitchell	Christina Peusch
Jack Daniels	Paula Montgomery	Paul Rogers
Anna Davis	Barbara Moore	Adam Skolnik
Susan Kleinhammer	Ruth Ann Norton	

Members Absent:

Delegate Dalya Attar Senator Jill Carter

Guests Present:

Frederick Banks-MDE	Shamola Dye-MDE	Wendy Phillips-MDE
Thea Becton-HUD	Caitlin Eversmier-MDE	Tiffany Price-MDH
Janice Besecker-MDH	Eamon Flynn-MDH	Tim Rule-MDE
Aku Boatema-MDH	Steven Homola-BCDHCD	Candace Scott-MDH
Rena Boss-Victoria-MDE	Darlene Israel-MDH	Stephanie Staats-HUD
Camille Burke-BCHD	Dawn Joy-AMA	Wes Stewart-GHHI
Chris Corzine-OAG	Myron Mason-MSDE	Chris White-ARC
Lori DeLester-Public	Serena McIlwain-MDE	
William Doyle-HCHD	Jo Anne Murray-MSDE	

Approval of Minutes:

A motion was made by Adam Skolnik, seconded by Mary Beth Haller to accept the January 5, 2023 minutes as distributed. All present Commissioners were in favor; the minutes were approved.

Old Business:

- **Next Meeting Reminder:** Thursday, 03/02/23 9:30 a.m. – 11:30 a.m which includes the Agenda items below.
 - Introduction and Commitment of Governor Wes Moore
 - Introduction to Secretary Jacob Day of the Department of Housing & Community Development
 - HB1110 Updates - Environment - Lead Poisoning Prevention - Elevated Blood Lead Level (Tyler Abbott)
 - Childhood Blood Lead Surveillance Report Updates (Tyler Abbott)
 - Subcommittee Updates on Environmental Investigations (Paula Montgomery/Tyler Abbott)
 - MDE – Compliance and Enforcement (Paula Montgomery)
 - Review Transition Reports relating to MDE Lead Program (Ruth Anne Norton)
- **2023 Lead Commission Calendar for final approval:** The Commission discussed the 2023 calendar and updated it by adding “Dashboard of Unit Production on Lead Hazard Control” with the date to be determined. Ruth Anne Norton suggested that item be added with the intention to create a comprehensive report from the Commission, such as a living document, that will report on the activities around lead poisoning prevention and lead hazard control that is transparent to the public such as the number of federal, state, or local public dollars, being used for lead hazard control efforts. The report could also highlight the efforts of other agencies such as MDH, DHCD, and MDE. The report would be a benefit to child advocates, educators, rental property owners, etc. Jacob Benzaquen, Cliff Mitchell, and Paula Montgomery volunteered to contribute to this process. Ruth Ann Norton indicated that she will reach out to those that volunteered to discuss the matter further.
- **Attendance Report 2022:** Ruth Anne Norton reported that she made efforts to reach out to Delegate Attar and Senator Carter to discuss representation from the legislature in the Lead Commission. Wendy Phillips provided the Commissioners and Guests the report and briefly discussed the results.

New Business:

- **Introduction of MDE Secretary:** Ruth Anne Norton introduced Serena McIlwain, Secretary of MDE. Secretary McIlwain introduced herself, expressed her excitement to work with the Commission and offered her support.
- **MDH EPHT- Environmental Public Health Tracking:** Prior to Cliff Mitchell’s scheduled presentation, he announced that the report discussed at the December 2022 Commission meeting, during MDH’s Evaluation of Universal Testing and Updates on Home Visits, is been released and posted to the MDH website: [Childhood Blood Lead Testing in Maryland: Evaluation and Recommendations](#). Following this update, Dr. Mitchell conducted his presentation and provided the Commission a link to the [Environmental Public Health Tracking Portal](#) which provides data about lead and is important to environmental public health and medicine as a reliable source of information that can be used to carry out primary, secondary, and tertiary prevention of lead poisoning. The goal of this tracking portal is to make environmental health data publicly available for action. Dr. Mitchell gave a live demonstration on how to use the portal and navigate the different pages of information.
- **MDE Environmental Justice Presentation:** Caitlin Eversmier conducted her presentation which was previously sent to the Commission as an attachment called “EJ & MDE”. During her presentation she provided the Commission a link to the [EJ Screening Tool](#). MDE administers regulatory and infrastructure programs to protect and restore the environment for the health and well-being of all Maryland. MDE strives to implement programs that reduce existing environmental inequities and that avoid the creation of new inequities in communities who are overburdened or underserved that may have Environmental Justice (EJ) concerns. The MDE EJ Screening Tool allows users to identify potential EJ or overburdened communities. The EJ Screening Tool is intended to enhance agency compliance, oversight, monitoring, and to enhance communication and outreach in areas with permitting activities in EJ or overburdened communities, or underserved communities. The tool uses Maryland census data to enable users to better understand the nature and number of environmental stressors and potential disparities in communities. EJ aims to ensure fair treatment and equality for all Marylanders. Ms. Eversmier gave a brief powerpoint presentation, previously provided to the Commission, which included the internal environmental justice policy and legislation. Ms. Eversmier also demonstrated how to use the tool.

- **BCHD Update On the City’s Tracking of Lead Violation Notices:** Camille Burke gave a powerpoint presentation, previously provided to the Commission titled “2023 CEB Violation Prez_”, which highlighted the following topics: definition of Lead Violation Notice; actions that trigger violation notices; the process of sending violation notices and the next steps; non-Compliance; re-Inspection; passing the inspection; and list of staff and contact information.
- **MD-DHCD – Lead Grant Programs:** Jack Daniels provided the following updates:
 - MD-DHCD has an MOU with Baltimore City DHCD which is going well.
 - MD-DHCD has 20 deals that it has funded for around \$150,000.
 - MD-DHCD is getting about two submissions a week which are prioritized by working with its underwriting staff to validate and verify in order to move forward with the approvals.
 - MD-DHCD has committed five of its healthy homes for healthy kids projects for around \$500,000
 - MD-DHCD has a pipeline of 12 deals that are waiting for approval.
 - MD-DHCD recently received committee approval for one of those deals and it is working on the accommodation/relocation portion of the project.
 - MD-DHCD has another scope of work that has come in. Currently, its lead inspectors are reviewing the work to make sure it's acceptable to go to the committee.
 - MD-DHCD received about four applications, one of which was not able to move forward because there was no lead in the house.
 - MD-DHCD has done around \$4 million dollars in its other repair programs: Accessible Homes for Seniors, the traditional whole home, critical repair program (MHRP), and Indoor Plumbing Program.
 - The HAF WholeHome Critical Repairs Grant program has seen 410 applications encumbered during this fiscal year accounting for \$4.1 million dollars that was from July 1 to December 31. MD-DHCD is looking internally within its executive management in order to increase funding for the program. By the end of the month, MD-DHCD will have enough applications to spend out the whole \$10 million dollars. The program will end at the end of the calendar year 2026.
 - MD-DHCD has another initiative in Baltimore City called the Homeownership Works (HOW) program which is a pilot program. MD-DHCD has concentrated on two areas of the Pilot Program; Johnson Square in Baltimore City and the Pine Street Community in Cambridge. MD-DHCD is working closely with Habitat for Humanity Choptank in Pine Street and ReBUILD Metro in Johnson Square. There is current legislation in session to increase funding for this Pilot Program as MD-DHCD is becoming a national model for addressing property value gaps.
 - MD-DHCD has a pipeline roughly of about 15 deals in Johnson Square. Three of those deals have been approved. Four are currently in the process of getting final approval and getting commitment. The other eight deals are pending. MD-DHCD is waiting on the customer to be able to get the contractor to come and give a qualified bid in Cambridge.
 - In the Pine Street area MD-DHCD has 12 deals that are in the beginning stages. Once MD-DHCD gets its participation agreement finalized, it should have most of those deals committed and done, however one of those deals fell through which was the deal through healthy homes for healthy kids.

Legislation/Pending Legislative Action Dates

- [HB0079/SB0296 - Housing and Community Development - Whole-Home Repairs Act of 2023](#): Ruth Anne Norton gave a brief overview of HB79/SB296. The bill was introduced by Delegate Vaughn Stewart of Montgomery County and would be replicating the Pennsylvania Whole House law that was passed last year. The state of Pennsylvania put together a fund out of money from the American Rescue Plan. Pennsylvania put the
- \$125 million dollars into a fund for housing for environmental health under the American Rescue Plan with the intention to pilot a whole house approach.
- [HB0200/SB0181 - Budget Bill \(Fiscal Year 2024\)](#): Wes Stewart gave an overview of this supplemental budget bill that will include \$1.5 million dollars in additional funding for the Lead Poisoning Prevention Fund at the Maryland Department of the Environment.
- [HB0036/SB0100 - Real Property – Actions to Repossess – Proof of Rental Licensure](#): Adam Skolnik gave an overview of this bill which requires landlords to have licenses if the landlords are going to use “fail to pay rent” cases in rent court. The Maryland Multi-Housing Association supports this bill with some amendments. Adam

Skolnik will forward to Wendy Phillips the amendments that MMHA is suggesting to be shared with the Commission.

- [HB0169/SB0144 - Public Utilities - Energy Efficiency and Conservation Programs - Energy Performance Targets and Low-Income Housing](#): Ruth Anne Norton reminded the Commission that during the 2022 legislative session, this bill was approved by the legislature but vetoed by Governor Hogan. This bill is being reintroduced in the 2023 session and is an energy efficiency bill that will guide investment to ensure that energy efficiency happens and that low-income families are getting the appropriate level of investment based on their contribution to “Empower” funds which is a utility fund that provides funding back to the public for energy efficiency and weatherization. The bill calls for a Commission that will look at the whole house approach. This bill has an impact on lead in that, like HB79, HB169/SB144 calls for the alignment of dollars into the fund. The general non low-income fund from utilities has about \$130 million dollars in it for the general public which is fully spent out in many ways for the public. Low-income communities actually contribute around \$49 million dollars a year into the fund. Low-income communities only received back \$28 million dollars a year which creates an inequity of expenditure and guidance. HB169/SB144 would effectively correct that inequity. Chair Norton indicated that she will share GHHI’s testimony with the Commission. This bill would provide guidance for the Department of Housing and Community Development about priority expenditure to the lowest income communities. The bill will also establish a task force that will look at an align/grade/coordinate process. The Maryland Matters newspaper recently published an article regarding this bill. Chair Norton indicated that she will share that article with the Commission. The bill sponsor in the House is Delegate Lorig Charkoudian from Montgomery County. The bill sponsor in the Senate is the Chair of the Education, Energy, and the Environment Committee, Senator Brian Feldman. The Senate hearing was on January 31, 2023. The Commission supports this bill which will likely get pasted again by the legislature.

Agency/Hot Topics/Current Events:

- **MDE** (Maryland Department of the Environment) Paula Montgomery stated that the FDA has announced that it has draft guidance. There will be a webinar on that guidance on March 2, 2023 at 10:00am for the industry on action levels for lead in baby food as a response to the zero tolerance initiative as well as goals to reduce dietary exposure to contaminants while maintaining nutritious foods. Additionally, the CDC has identified a cream that the Vietnamese population is using for eczema. According to the FDA the threshold limit is 10 parts, per million. The cream in question is over 7,000 parts per million. There was an advisory that went out to Locals about the cream.
- **MDH** (Maryland Department of Health): No updates provided.
- **MDAAP** (American Academy of Pediatrics, Maryland Chapter) Paul Rogers indicated that MDAAP just completed its fifth session in which Cliff Mitchell participated.
- **MSDE/OCC** (Maryland State Department of Education/Office of Child Care): No updates provided.
- **MIA** (Maryland Insurance Administration): No updates provided.
- **MD-DHCD** (Maryland Department of Housing and Community Development): No updates provided.
- **BC-DHCD** (Baltimore City Department of Housing and Community Development): No updates provided.
- **BCHD** (Baltimore City Health Department): No updates provided.
- **GHHI** (Green & Healthy Homes Initiative): No updates provided.

Commissioner Comments and Updates: No updates provided.

Public Comments and Updates: No updates provided.

Adjournment: A motion was made by Jacob Benzaquen to adjourn the meeting, seconded by Paula Montgomery. All present Commissioners were in favor and the meeting was adjourned at 11:30 a.m.



Maryland
Department of
the Environment

Maryland Department of the Environment

House Bill 1110 Report

Lead Poisoning Prevention - Elevated Blood Lead Level

March 2, 2023

Tyler Abbott, Director
Land and Materials Administration



MDE's Mission

To protect and restore the environment for the health and well-being of all Marylanders.

Since 1987, MDE has provided enforcement of environmental laws and regulations, long-term planning and research. MDE assists communities and businesses in protecting Maryland's environment from pollution and environmental emergencies.





Background

- On April 12, 2022, Governor Hogan signed House Bill 1110 - Environment - Lead Poisoning Prevention - Elevated Blood Level
 - Amends sections in the Maryland Health Children Act of 2019 which requires MDE to adopt the Centers of Disease Control and Prevention (CDC) Blood Lead Reference Value (BLRV)
 - Oct. 28, 2022 - MDE must notify parent/guardian if child (6 or younger) has a BLRV $\geq 3.5\mu\text{g}/\text{dL}$
 - Evaluate the most effective means of incorporating CDC BLRV (and report to the Maryland General Assembly)
 - Includes a series of assessments/recommendations for implementation
 - Jan 1, 2024 - MDE must conduct an environmental investigation if EBL is $\geq 3.5\mu\text{g}/\text{dL}$



Findings/Recommendations

- Lowering the EBL level from 5 $\mu\text{g}/\text{dl}$ to 3.5 $\mu\text{g}/\text{dl}$ will result in an increase of confirmed cases requiring action by the Department.
 - Est. 1,070 confirmed cases annually
- MDE will need additional staff to handle the workload increase
 - 17 staff across 3 divisions
- Local Health Departments will need additional resources to fully participate in case management efforts
- MDE should evaluate whether changes to standards for lead in environmental media or products are needed
- Increase public outreach on lead hazards
- Legislative efforts to further decrease potential lead exposure in affected properties
- Continue Water Sampling during environmental investigations
- Continue evaluating and improving environmental investigation protocols

Lead Poisoning Prevention FY '23 (Q1 & Q2) July 1 – Dec 31, 2022

PERMITTED SITES/FACILITIES				
			FY ' 22 (Total)	FY'23 (through 12/31)
Number of permits/registrations issued (accreditations)			866	473
Number of permits/registrations (accreditations) in effect at fiscal year end			2,304	3,732
OTHER REGULATED SITES/FACILITIES				
Number of registrations processed			6,856	6,901
Number of units registered as of end of FY			121,144	114,706
INSPECTIONS				
Number of sites inspected (“inspected” defined as at the site)				
By accredited lead paint service providers			29,219	30,104
By MDE			1,772	607
Number of sites audited but not inspected (places where MDE reviewed submittals but did not go to the site)			8	7
Number of sites evaluated for compliance (sum of the three measures above)			30,999	30,754
Number of inspections, spot checks (captures number of compliance activities at sites)				
By accredited lead paint service providers			29,219	30,410
By MDE			1,954	657
Number of audits (captures number of reviews of file/submittals for compliance)			8	7
Number of inspections, audits, spot checks (sum of the three measures above)			31,181	31,074
COMPLIANCE PROFILE				
Number of inspected sites/facilities with significant violations			155	71
Percentage of inspected sites/facilities with significant violations			9%	11%
Inspection coverage rate (number of sites inspected/coverage universe)			26%	27%
SIGNIFICANT VIOLATIONS				
Number of significant violations involving environmental or health impact			192	41
Number of significant violations based on technical/preventative deficiencies			84	0
Number of significant violations carried over awaiting disposition from previous fiscal year			763	387
Total number of significant violations (sum of the three measures above)			1,039	428
DISPOSITION OF SIGNIFICANT VIOLATIONS				
Resolved			334	63
Ongoing			705	365
ENFORCEMENT ACTIONS				
Number of compliance assistance rendered			277	231
	Administrative	Civil/Judicial	Total	
Number of show cause, remedial, corrective actions issued	64	0	64	10 (all admin.)
Number of stop work orders	0	0	0	0
Number of injunctions obtained	0	0	0	0

Number of penalty and other enforcement actions	14,936	0	14,936	7,913
Number of referrals to Attorney General for possible criminal action			0	0
Number of supplemental environmental projects (SEPs) entered into / units affected			2 / 137	0/0
PENALTIES				
Amount of administrative or civil penalties obtained (\$ collected in FY)			\$590,737	\$330,541

* This total number also includes government fee exempt units.

** Significant violation percentage is based on MDE inspections only.

***Inspection coverage rate includes MDE and third-party inspections.



Bill Title: House Bill 36, Real Property – Actions to Repossess – Proof of Rental Licensure

Committee: Judiciary

Date: January 19, 2023

Position: Favorable with Amendments

This testimony is offered on behalf of the Maryland Multi-Housing Association (MMHA). MMHA is a professional trade association established in 1996, whose members consist of owners and managers of more than 210,000 rental housing homes in over 958 apartment communities. Our members house over 538,000 residents of the State of Maryland. MMHA also represents over 250 associate member companies who supply goods and services to the multi-housing industry including towing companies.

This bill requires a landlord (in a jurisdiction that requires licensure) to plead and demonstrate when filing a written complaint to repossess residential property that the property is either (1) licensed in compliance with applicable local rental licensing requirements or (2) exempt from applicable local rental licensing requirements. These requirements are generally applicable upon the filing of a failure to pay rent, tenant holding over, or breach of lease action (subject to limited exception, including in circumstances involving a clear and imminent danger). At trial, the landlord must demonstrate to the satisfaction of the court that the property is licensed or exempt. A landlord may provide electronic proof of licensure to satisfy the requirement

MMHA supports the intent of this bill. However, MMHA has the following concerns and suggested amendments to resolve the issues.

1. Time of Filing: The bill requires the housing provider to demonstrate on two separate occasions whether the property is licensed or exempt in the local jurisdiction. The housing provider must do so “ON THE FILING OF A WRITTEN COMPLAINT TO REPOSSESS RESIDENTIAL PROPERTY” (see Page 4, lines, 21-29) and “AT TRIAL”. (See page 4, line 32 through and including page 5, lines 1-2). The housing provider’s burden should not be before the clerk of the court upon the filing of a complaint but rather at trial (page 4, line 32-33). MMHA requests striking page 4, lines 21-29.

2. Local Government Lapses: In *Assanah-Carroll v. Law Offices of Edward J. Maher PC*, Misc. No. 11, Sept. Term, 2021 (filed July 28, 2022), the Court of Appeals held that, “Where a municipality or county enacts a rental license law which conditions the performance of a residential lease upon the issuance of a rental license, and a landlord fails to possess a valid license for a period of the tenant’s occupancy, a landlord may not utilize the courts, whether through a common law breach of contract action, or a statutory action arising under Title 8 of the



Maryland Code’s Real Property Article to recover unpaid rent that is attributable to the unlicensed period. Further, the Court held that the aforementioned prohibition does not apply in cases where a landlord can demonstrate that the tenant’s wrongful actions caused the licensing authority to suspend, revoke, or refuse to grant or renew the rental license. **The Court did not clarify the issue of a license lapsing due to the actions of local government, which MMHA’s members have experienced in local jurisdictions.** In jurisdictions with rental licensing, the recent holding now inextricably links the ability of a local government to effectively implement and facilitate its rental licensing program with the ability of property owners within that jurisdiction to undertake actions to collect rent.

On page 4, in line 12, after “TENANT” insert “OR THE COUNTY, MUNICIPALITY OR ANY OTHER JURISDICTION”.

3. Local Rental Licensing Systems: Jurisdictions throughout the State with rental licensing systems - Anne Arundel County, Baltimore City, Howard County Prince George’s County, and Montgomery County - provide one license for all units in a multi-family dwelling property. See attached email from Kathleen Byrne from Department of Housing and Community Development in Baltimore City. Under this bill and as applied in these jurisdictions, if one license has 20 units and one unit is in violation, that housing provider would be prevented from filing and pursuing judgment in a failure to pay rent, breach of lease or tenant holding over against any other unit that is compliant. This is extremely problematic for housing providers. This good faith language seeks to resolve the gap between the intent of the bill and the rigid rental licensing systems at the local level.

On page 5, after line 4, insert:

“(3) IN JURISDICTIONS WHERE MULTIPLE RENTAL UNITS ARE LICENSED UNDER ONE LICENSE, ONLY THE UNIT OR UNITS THAT ARE DENIED, SUSPENDED OR REVOKED UNDER THE REQUIREMENTS ESTABLISHED IN THE LOCAL JURISDICTION SHALL BE DEEMED UNLICENSED FOR THE PURPOSES OF THIS SECTION.

For the foregoing reasons, MMHA respectfully requests a **favorable report with amendments on House Bill 36.**

Aaron J. Greenfield, MMHA Director of Government Affairs, 410.446.1992

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 36
Judiciary

(Delegate Lehman, *et al.*)

Real Property – Actions to Repossess – Proof of Rental Licensure

This bill requires a landlord (in a jurisdiction that requires licensure) to plead and demonstrate when filing a written complaint to repossess residential property that the property is either (1) licensed in compliance with applicable local rental licensing requirements or (2) exempt from applicable local rental licensing requirements. These requirements are generally applicable upon the filing of a failure to pay rent, tenant holding over, or breach of lease action (subject to limited exception, including in circumstances involving a clear and imminent danger). At trial, the landlord must demonstrate to the satisfaction of the court that the property is licensed or exempt. A landlord may provide electronic proof of licensure to satisfy the requirement.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

Local Effect: The bill is not anticipated to materially affect local operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill's requirements do not apply in a breach of lease or tenant holding over action if the landlord shows that the actions of the tenant caused the licensing authority to suspend, revoke, or refuse to grant or renew the rental license. If a landlord asserts that rental property is not licensed as required due to the actions of a tenant, the landlord may

file a breach of lease or tenant holding over action only after the landlord provides the tenant with written notice of the assertion at least 30 days prior to filing the action.

Current Law:

Actions to Repossess Property

In general, a landlord seeking to repossess property must comply with any applicable procedural/notice requirements and file the appropriate action (*e.g.*, failure to pay rent, breach of lease, *etc.*) in the District Court. For example, if an unexpired lease authorizes the landlord to repossess the premises prior to the expiration of the term of the lease if the tenant breaches the lease, then the landlord may file a complaint for breach of lease. A complaint for breach of lease must be in writing, filed in the District Court of the county where the property is located, and based on the following circumstances: (1) the tenant breaches the lease; (2) the landlord meets specified notice requirements or the breach “demonstrates a clear and imminent danger” and meets additional specified notice requirements; and (3) the tenant or person in actual possession of the premises refuses to comply. After specified procedural requirements are satisfied, if the court determines that the tenant breached the terms of the lease and that the breach was substantial and warrants an eviction, the court must give judgment for the restitution of the possession of the premises and issue its warrant to a sheriff/constable commanding the tenant to deliver possession to the landlord.

Licensing of Rental Property

Statute does not include statewide requirements for rental property licensure. However, several jurisdictions require such licensing. For example, in Anne Arundel County, a person may not operate a multiple dwelling or rooming house without a license. A separate license is required for each multiple dwelling or rooming house. In Prince George’s County, licenses are generally required to operate (as an owner, lessee, agent, or in another capacity) single-family rental facilities or multifamily rental facilities, subject to specified exceptions.

Under the Baltimore City Code, an individual is prohibited from (1) renting or offering to rent to another all or any part of any rental dwelling without a currently effective license from the Housing Commissioner or (2) charging, accepting, retaining, or seeking to collect any rental payment or other compensation for providing to another the occupancy of all or any part of any rental dwelling unless the person is licensed, as specified. A license is not required for any rental dwelling that is owned and operated by the Housing Authority of Baltimore City.

Additional Comments: Although the General Assembly passed similar legislation in the 2022 session (Senate Bill 563), the Governor vetoed the bill.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See HB 703 and SB 563 of 2022.

Designated Cross File: SB 100 (Senator Hettleman) - Judicial Proceedings.

Information Source(s): Baltimore City; Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - January 17, 2023
km/jkb

Analysis by: Donavan A. Ham

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

HOUSE BILL 36

N1
HB 703/22 – JUD

(PRE-FILED)

3lr0646
CF SB 100

By: **Delegates Lehman, Charkoudian, Foley, D. Jones, Ruth, and Terrasa**

Requested: October 31, 2022

Introduced and read first time: January 11, 2023

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Actions to Repossess – Proof of Rental Licensure**

3 FOR the purpose of requiring, in certain actions to repossess residential rental property, a
4 landlord to submit to the clerk of the court evidence of compliance with certain local
5 rental property licensure requirements and demonstrate that the landlord is
6 compliant with the licensure requirements; and generally relating to actions to
7 repossess property.

8 BY repealing and reenacting, without amendments,

9 Article – Real Property

10 Section 8–401(a) and (b)(1)

11 Annotated Code of Maryland

12 (2015 Replacement Volume and 2022 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article – Real Property

15 Section 8–401(b)(2), 8–402(b)(1)(i), and 8–402.1(a)(1)(i)

16 Annotated Code of Maryland

17 (2015 Replacement Volume and 2022 Supplement)

18 BY adding to

19 Article – Real Property

20 Section 8–406

21 Annotated Code of Maryland

22 (2015 Replacement Volume and 2022 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

24 That the Laws of Maryland read as follows:

25 **Article – Real Property**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 8-401.

2 (a) Whenever the tenant or tenants fail to pay the rent when due and payable, it
3 shall be lawful for the landlord to have again and repossess the premises in accordance
4 with this section.

5 (b) (1) Whenever any landlord shall desire to repossess any premises to which
6 the landlord is entitled under the provisions of subsection (a) of this section, the landlord
7 or the landlord's duly qualified agent or attorney shall ensure that the landlord has
8 completed the procedures required under subsection (c) of this section.

9 (2) [After] **SUBJECT TO § 8-406 OF THIS SUBTITLE AND AFTER**
10 completing the procedures required under subsection (c) of this section, a landlord or the
11 landlord's duly qualified agent or attorney may file the landlord's written complaint under
12 oath or affirmation, in the District Court of the county wherein the property is situated:

13 (i) Describing in general terms the property sought to be
14 repossessed;

15 (ii) Setting forth the name of each tenant to whom the property is
16 rented or any assignee or subtenant;

17 (iii) Stating the amount of rent and any late fees due and unpaid, less
18 the amount of any utility bills, fees, or security deposits paid by a tenant under § 7-309 of
19 the Public Utilities Article;

20 (iv) Requesting to repossess the premises and, if requested by the
21 landlord, a judgment for the amount of rent due, costs, and any late fees, less the amount
22 of any utility bills, fees, or security deposits paid by a tenant under § 7-309 of the Public
23 Utilities Article;

24 (v) If applicable, stating that, to the best of the landlord's knowledge,
25 the tenant is deceased, intestate, and without next of kin; and

26 (vi) If the property to be repossessed is an affected property as
27 defined in § 6-801 of the Environment Article, stating that the landlord has registered the
28 affected property as required under § 6-811 of the Environment Article and renewed the
29 registration as required under § 6-812 of the Environment Article and:

30 1. A. If the current tenant moved into the property on or
31 after February 24, 1996, stating the inspection certificate number for the inspection
32 conducted for the current tenancy as required under § 6-815(c) of the Environment Article;
33 or

1 B. On or after February 24, 2006, stating the inspection
2 certificate number for the inspection conducted for the current tenancy as required under
3 § 6–815(c), § 6–817(b), or § 6–819(f) of the Environment Article; or

4 2. Stating that the owner is unable to provide an inspection
5 certificate number because:

6 A. The owner has requested that the tenant allow the owner
7 access to the property to perform the work required under Title 6, Subtitle 8 of the
8 Environment Article;

9 B. The owner has offered to relocate the tenant in order to
10 allow the owner to perform work if the work will disturb the paint on the interior surfaces
11 of the property and to pay the reasonable expenses the tenant would incur directly related
12 to the relocation; and

13 C. The tenant has refused to allow access to the owner or
14 refused to vacate the property in order for the owner to perform the required work.

15 8–402.

16 (b) (1) (i) **[Where] SUBJECT TO § 8–406 OF THIS SUBTITLE AND WHERE**
17 any tenancy is for any definite term or at will, and the landlord shall desire to repossess
18 the property after the expiration of the term for which it was leased and shall give notice
19 as required under subsection (c) of this section to the tenant or to the person actually in
20 possession of the property to remove from the property at the end of the term, and if the
21 tenant or person in actual possession shall refuse to comply, the landlord may make
22 complaint in writing to the District Court of the county where the property is located.

23 8–402.1.

24 (a) (1) (i) **[Where] SUBJECT TO § 8–406 OF THIS SUBTITLE AND WHERE**
25 an unexpired lease for a stated term provides that the landlord may repossess the premises
26 prior to the expiration of the stated term if the tenant breaches the lease, the landlord may
27 make complaint in writing to the District Court of the county where the premises is located
28 if:

29 1. The tenant breaches the lease;

30 2. A. The landlord has given the tenant 30 days' written
31 notice that the tenant is in violation of the lease and the landlord desires to repossess the
32 leased premises; or

33 B. The breach of the lease involves behavior by a tenant or a
34 person who is on the property with the tenant's consent, which demonstrates a clear and
35 imminent danger of the tenant or person doing serious harm to themselves, other tenants,
36 the landlord, the landlord's property or representatives, or any other person on the property

1 and the landlord has given the tenant or person in possession 14 days' written notice that
2 the tenant or person in possession is in violation of the lease and the landlord desires to
3 repossess the leased premises; and

4 3. The tenant or person in actual possession of the premises
5 refuses to comply.

6 **8-406.**

7 (A) (1) THIS SECTION APPLIES ONLY IN A COUNTY, A MUNICIPALITY, OR
8 ANY OTHER JURISDICTION THAT REQUIRES A LICENSE FOR THE LAWFUL
9 OPERATION OF RESIDENTIAL RENTAL PROPERTY.

10 (2) THIS SECTION DOES NOT APPLY TO AN ACTION UNDER § 8-402 OR
11 § 8-402.1 OF THIS SUBTITLE WHERE THE LANDLORD SHOWS THAT THE ACTIONS OF
12 THE TENANT CAUSED THE LICENSING AUTHORITY TO SUSPEND, REVOKE, OR
13 REFUSE TO GRANT OR RENEW THE RENTAL LICENSE.

14 (B) IF A LANDLORD ASSERTS THAT RENTAL PROPERTY IS NOT LICENSED IN
15 COMPLIANCE WITH APPLICABLE LOCAL RENTAL LICENSING REQUIREMENTS DUE TO
16 THE ACTIONS OF A TENANT, THE LANDLORD MAY FILE AN ACTION UNDER § 8-402 OR
17 § 8-402.1 OF THIS SUBTITLE ONLY AFTER THE LANDLORD PROVIDES THE TENANT
18 WITH WRITTEN NOTICE OF THE ASSERTION THAT THE TENANT CAUSED THE
19 LICENSING AUTHORITY TO SUSPEND, REVOKE, OR REFUSE TO GRANT OR RENEW THE
20 RENTAL LICENSE AT LEAST 30 DAYS BEFORE FILING THE ACTION.

21 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
22 ON THE FILING OF A WRITTEN COMPLAINT TO REPOSSESS RESIDENTIAL PROPERTY
23 UNDER § 8-401, § 8-402, OR § 8-402.1 OF THIS SUBTITLE OR UNDER SUBTITLE 9 OF
24 THE CODE OF PUBLIC LOCAL LAWS OF BALTIMORE CITY, THE LANDLORD SHALL
25 PLEAD AND DEMONSTRATE THAT THE PROPERTY IS:

26 (I) LICENSED IN COMPLIANCE WITH APPLICABLE LOCAL
27 RENTAL LICENSING REQUIREMENTS; OR

28 (II) EXEMPT FROM APPLICABLE LOCAL RENTAL LICENSING
29 REQUIREMENTS.

30 (2) THIS SUBSECTION DOES NOT APPLY TO AN ACTION TO REPOSSESS
31 FOR BREACH OF LEASE UNDER § 8-402.1(A)(1)(I)2B OF THIS SUBTITLE.

32 (D) (1) AT TRIAL, THE LANDLORD MUST DEMONSTRATE TO THE
33 SATISFACTION OF THE COURT THAT THE PROPERTY LISTED IN THE WRITTEN

1 COMPLAINT IS LICENSED WITH THE JURISDICTION OR IS EXEMPT FROM APPLICABLE
2 LICENSING REQUIREMENTS.

3 (2) TO SATISFY THE REQUIREMENTS OF THIS SUBSECTION, A
4 LANDLORD MAY PROVIDE ELECTRONIC PROOF OF LICENSURE.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2023.