

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 36
Judiciary

(Delegate Lehman, *et al.*)

Judicial Proceedings

Real Property – Actions to Repossess – Proof of Rental Licensure

This bill requires a landlord (in a jurisdiction that requires licensure) when filing a written complaint to repossess residential property to plead with supporting facts, in a form prescribed by the Judiciary, that the property is either (1) licensed in compliance with applicable local rental licensing requirements; (2) exempt from applicable local rental licensing requirements; or (3) unlicensed for specified reasons. 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 by a preponderance of the evidence that the property is licensed, exempt, or unlicensed for specified reasons. A landlord may provide electronic proof of licensure to satisfy the requirement.

Fiscal Summary

State Effect: The Judiciary can handle any document revisions or programming costs with existing budgeted resources. The bill is not otherwise anticipated to materially affect State operations or finances.

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

Small Business Effect: Minimal.

Analysis

Bill Summary: At trial, the landlord must demonstrate by a preponderance of the evidence that the property listed in the written complaint is:

- licensed in compliance with applicable local rental licensing requirements;
- exempt from applicable local rental licensing requirements;
- not licensed in compliance with applicable local rental licensing requirements because of a wrongful act of the tenant, regardless of intention, that caused the licensing authority to suspend, revoke, or refuse to grant or renew the rental license;
- not licensed in compliance with applicable local rental licensing requirements because an administrative error or omission by the licensing authority caused the licensing authority to suspend, revoke, or refuse to grant or renew the rental license;
- or
- part of a multi-unit property not licensed in compliance with local rental licensing requirements because of a condition affecting another unit in the multi-unit property and where (1) there is one license for multiple units; (2) the property listed in the written complaint and the surrounding common areas satisfy the inspection requirements of the local licensing authority and are free of defects that threaten the life, health, or safety of the tenant; and (3) the landlord has taken all necessary steps to obtain or renew the rental license for the property but is unable to obtain or renew the license due to a condition affecting another unit not subject to the eviction action on the multi-unit rental license.

The court must grant one postponement in the event that a party seeks additional evidence related to the assertion in the written complaint regarding licensure.

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

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