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Government Operations and Estates
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Joint Committee on Administrative,
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Testimony of Delegate Samuel I. Rosenberg
Before the House Environment and Transportation Committee In Support Of
House Bill 491
Landlord and Tenant – Repossession for Failure to Pay Rent –
Lead Risk Reduction Compliance

Mister Chair and Members of the Committee:

If the scales of justice are weighted in favor of the powerful, they can serve no justice at all.

As the law stands today, tenants and landlords each have obligations to the other. The landlord is expected to provide a livable property, free of obvious hazards to health. The tenant is expected to keep the property in working order and timely pay the rent. Paradoxically, this hypothetical balance ends where justice should be found in its purest form: at the courthouse door.

A landlord who brings a court action for unpaid rent finds swift resolution: a trial to recover missing rent and force eviction may be scheduled with only five days' notice to the tenant. A tenant who asserts the presence of environmental hazards as a reason to withhold rent payment, however, is prevented from even demonstrating the landlord's failure to remove lead from the property. In other words, when a landlord seeks to evict a tenant, a judge is not required to consider that a landlord has broken the law, even when the evidence is uncontested.

House Bill 491 seeks to restore balance to the scales of justice by upholding the principle that a party seeking equity must come to court with clean hands and in this instance, with the relevant document in hand.

Here, a landlord must have proof that the affected property is registered with the Maryland Department of the Environment's Lead Registry Online System and have a Full Risk Reduction Certificate. These documents are easily made available by MDE and are kept accessible by all landlords in case of a tenant's request or a potential legal dispute. HB 491 does not create any additional obligations or administrative responsibilities beyond what is already required by existing law.

If a landlord files an action to repossess for failure to pay rent, that landlord should have to provide evidence that the property complies with all lead safety requirements. Simply put, HB 491 would forbid landlords' use of the courts to put tenants on the streets if the landlords themselves cannot demonstrate compliance with the law.

HB 491 acknowledges that landlords may require more time to compile evidence of regulatory compliance. Therefore, this bill extends the timeline for either party to collect evidence relevant to issues in the case from one day to 14 days. That timeframe can be further extended with consent from both parties.

The Court of Appeals definitively held that "a rental property owner who does not possess a current license to operate the premises, is not entitled to utilize the summary ejectment procedures outlined in Section 8-401 of the Real Property Article upon a tenant's failure to pay rent, if the dwelling is located in a jurisdiction that requires owners to obtain such licenses." *McDaniel v. Baranowski*, 19 A.3d 927, 929 (Md. 2011). This bill reflects the Court's holding with additional time for landlords to gather evidence of compliance with the statute.

For decades we have known that excessive levels of lead exposure in children cause reduced IQ, increased risk of ADHD, brain damage, and other disorders and developmental delays.¹ At an aggregate level, these toxin-induced symptoms increase criminality, lower education rates, and hurt employment prospects.²

Landlords already have a statutory obligation to minimize the risk of lead in homes. HB 491 would greatly aid enforcement of those laws by requiring landlords who use the courts to prove that they come to court with clean hands and a valid certificate of compliance.

I urge the committee to give House Bill 491 a favorable report.

February 18, 2020

¹ Wes Moore and Mark Gunnery, "A Toxic Legacy: Confronting Lead Poisoning in Baltimore" *WYPR* Oct. 16, 2019. Accessed online at <https://www.wypr.org/post/toxic-legacy-confronting-lead-poisoning-baltimore>.

² Kevin Drum, "Lead: America's Real Criminal Element" *Mother Jones* January/February 2013. Accessed online at <https://www.motherjones.com/environment/2016/02/lead-exposure-gasoline-crime-increase-children-health/>