



HOUSE BILL 491
Landlord Tenant – Repossession for Failure to Pay Rent—
Lead Risk Reduction Compliance
Hearing on House Environment and Transportation Committee
February 18, 2020
Position: SUPPORT

The Pro Bono Resource Center of Maryland (“PBRC”), an independent 501(c)(3) non-profit organization, is the statewide clearinghouse for pro bono civil legal services in Maryland. As the designated pro bono arm of the Maryland State Bar Association, PBRC provides training, mentorship, and pro bono service opportunities to members of the private bar. We respond to acute legal needs of low-income communities identified in areas across the state by piloting innovative pro bono service projects targeting specific legal problems or populations.

In May 2017, with the support of grants from Maryland Judiciary’s Access to Justice Department and Maryland Legal Services Corporation, PBRC launched the “Tenant Volunteer Lawyer of the Day Program” (TVLD) in Baltimore City Rent Court. Since the program’s inception, over 1,300 tenants have been paired with a volunteer attorney for day-of-court representation in summary ejectment proceedings. When representing a tenant through the TVLD Program, volunteer attorneys are asked to identify and report deficiencies in the landlord’s Failure to Pay Rent (FTPR) complaint.

Between the six months of July 1, 2019, and December 31, 2019, attorneys with the TVLD program represented 434 tenants in Baltimore City District Court.

289 of those tenants—67%—were living in properties that lacked a valid registration and/or rental license.

When TVLD attorneys meet their client, they start by reviewing the landlord’s complaint for Failure to Pay Rent (FTPR). Often, a landlord’s lack of licensing/lead paint compliance is obvious on the face of the complaint: The requisite six-digit registration and license number on the complaint is listed with five or seven digits, or nothing is listed at all. Other times it is less obvious: The tenant may describe living conditions that suggest the property likely did not pass the inspection required to obtain a license, or the tenant may describe conditions that signal a lead paint hazard.

Because the burden is on the tenant to show her landlord is not in compliance with licensing and lead paint laws, a series of steps must be taken by the tenant or her TVLD attorney to obtain evidence necessary to raise the issue of noncompliance in court:

1) The tenant or volunteer must look up the property on the Department of Housing and Community Development's (DHCD) web portal using the web browser on her phone; 2) If the information on the DHCD portal shows that the tenant's housing is not in compliance, then the tenant must walk to the DHCD office, complete a request for information form, and wait in line to be seen by a DHCD customer service representative; 3) Once a DHCD representative provides the written certification that the property is not licensed, the tenant must return to court with the only evidence available showing the landlord's non-compliance. All the while, the tenant is at risk of obtaining a default judgment if her case is called while she is at DHCD seeking information that is readily available to her landlord.

At best, a tenant participating in the Tenant Volunteer Lawyer of the Day Program has about 90 minutes to obtain written certification showing their landlord's noncompliance with the law.

Finally, the tenant must present this evidence to the judge. Often, the judge will grant the landlord a postponement, thus offering the landlord another chance to obtain proof of compliance despite the tenant's direct evidence from DHCD of the landlord's non-compliance. Alternatively, if the tenant is either unable or unaware of the steps listed above, she has almost no chance of getting a postponement to investigate or obtain proof of her landlord's non-compliance. This is because Real Property 8-401 does not require the landlord to show proof of license or lead certificate status, thus de facto shifting the burden of proof to the tenant to both raise the issue and to provide documentation refuting the landlord's written assertion on the face of the complaint.

Requiring landlords to prove compliance at trial strengthens current laws designed to reduce sub-standard rental housing and ensures that landlords who do not follow the law will not reap the benefits of the District Court summary ejectment process.

Several State and local laws, as well as the Maryland Court of Appeals, have sought to address the importance of health and safety in rental housing by enacting licensure and lead paint compliance laws¹. By requiring that landlords prove compliance by showing evidence of their license and lead certification, HB 491 gives the court the authority to carry out the important policies already on the books.

PBRC urges a FAVORABLE report on HB 491.

Please contact Sydney Dunning, Director of PBRC's Courtroom Advocacy Project, with any questions.
sdunning@probonomd.org • 443-703-3049

¹See, for example, Maryland Reduction of Lead Risk in Housing Act, Baltimore City Public Local Law 5-4, *McDaniel v. Baronowski*, 419 Md. 560, 585 (2011).