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January 14, 2022

To: The Honorable Luke Clippinger  
Chair, Judiciary Committee

From: Kira Wilpone-Welborn, Assistant Attorney General  
Consumer Protection Division

Re: House Bill 101 – Landlord and Tenant - Repossession for Failure to Pay Rent - Lead Risk  
Reduction Compliance (SUPPORT)

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The Consumer Protection Division of the Office of the Attorney General (the “Division”) supports House Bill 101 sponsored by Delegate Samuel I. Rosenberg, which ensures that landlords comply with legal requirements for renting a residential property before evicting tenants through summary ejectment actions.

Landlord-tenant complaints are consistently among the top complaints received each year by the Division. A 2016 summer study that included landlords, tenant advocates, Maryland’s courts, government officials, and others highlighted existing issues arising in rent court actions, including the subject matter of this bill. Under current law, a landlord must obtain a certification from the Maryland Department of the Environment *before* renting a property to a tenant and list the lead certification number on the complaint to repossess the property. However, if the landlord fails to list the lead certification or lists an incorrect or invalid number on the complaint, the Court is barred from taking that fact into consideration in deciding the summary ejectment action. Additionally, in several jurisdictions throughout Maryland, a landlord is required to be licensed before renting a property. However, there is no requirement under current law that the landlord provide documentary evidence to the court demonstrating current compliance with this licensing requirement before using the courts to evict a tenant. It is well-settled that a business, which is required to be licensed, may not use the courts to enforce a contract if they are not so licensed. *See, e.g., Harry Berenter, Inc. v. Berman*, 258 Md. 290 (1970). House Bill 101 is consistent with this principle.

House Bill 101 would curtail landlords who fail to obtain and provide documentary evidence of the required lead certification from using the courts to collect unpaid rent and/or evict

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tenants. Any argument by landlords that they are unable to obtain copies of their lead certification to include with court filings due to problems with the Department of the Environment's database is a red herring because landlords are required to have a copy of the lead certificate *before* they rent the property.

Likewise, although the District Court complaint forms require landlords to certify they maintain applicable rental licenses, the Division has encountered landlords who have allowed their rental licenses to lapse but continue to file eviction actions against their tenants. Placing the burden on tenants to combat an erroneous certification at an expedited hearing without discovery is unfair to unsophisticated, and often unrepresented tenants. Instead, landlords who are already required to be in possession of documentation and evidence of their licensure are in the best position to prove their compliance with applicable rental licensing requirements. By requiring that a landlord provide documentary evidence to the court of compliance with this licensing requirement, House Bill 101 would ensure that a landlord who has not met these prerequisites for renting an apartment cannot use the courts as a tool for collection and eviction.

The Division requests that the Environment and Transportation Committee give House Bill 101 a favorable report.

cc: The Honorable Samuel I. Rosenberg  
Members, Environment and Transportation Committee