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February 25, 2022

To: The Honorable Kumar Barve
Chair, Environment and Transportation Committee

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

Re: House Bill 1069 – Real Property – Landlord and Tenant – Bedbugs (SUPPORT WITH AMENDMENTS)

The Consumer Protection Division of the Office of the Attorney General (the “Division”) supports with amendments House Bill 1069 sponsored by Delegate Marvin E. Holmes, Jr. and Nick Charles. Bed bug infestations are costly and traumatic events for renters.¹ House Bill 1069 seeks to remedy the harmful impacts of bed bug infestations in residential rental housing in several meaningful ways. First, House Bill 1069 specifies the respective reporting, inspection, treatment, and payment obligations of tenants and landlords when bed bugs are known or suspected to be present in a unit. Second, House Bill 1069 provides prospective renters the opportunity to obtain material information about past bed bug infestations in a unit offered for rent. Third, House Bill 1069 affords tenants the opportunity to seek actual damages should landlords fail to comply with House Bill 1069’s requirements. The Division commends the effort to clarify the expectations and obligations on landlords and tenants when bed bugs are suspected or found in residential units, and recommends further amendments that would reduce the financial burden on tenants experiencing a bed bug infestation.

The Maryland Real Property Code does not specifically address a landlord’s responsibility to inspect for and treat bed bug infestations in residential housing or notify prospective tenants of past bed bug infestations. Currently, after experiencing an active bed bug infestation, a tenant’s sole remedy is to file a rent escrow action, which may be insufficient to remediate a bed bug

¹ See Goddard, J., & de Shazo, R. (2012). Psychological effects of bed bug attacks (*Cimex lectularius* L.). *The American journal of medicine*, 125(1), 101–103. <https://doi.org/10.1016/j.amjmed.2011.08.010> and The Federal Bed Bug Workgroup, Collaborative Strategy on Bed Bugs.

infestation if units surrounding the impacted unit are also infested but left untreated. *See* Maryland Real Property Article § 8-211. Rent escrow also does not compensate a tenant for any actual damages incurred as a result of an unabated infestation. *Id.* House Bill 1069 would provide state-wide standards for suspected or known bed bug infestations in residential rental units by requiring immediate inspection and treatment by landlords.

Additionally, House Bill 1069 would prohibit landlords from offering for rent any unit the landlord knows or reasonably suspects to contain bed bugs and, on request by a prospective tenant, would require landlords to disclose whether the unit offered for rent contained bed bugs within the previous eight (8) months. House Bill 1069 would also require landlords, on request by a prospective tenant, to disclose the last date, if any, that the offered unit was inspected for and found to be free of bed bugs. Requiring the disclosure of this material information would allow prospective tenants to better compare units in the marketplace and choose a unit that is best suited for their ongoing health and safety.

While House Bill 1069 provides needed codification on the joint responsibilities of landlords and tenants when bed bugs are found in a rental unit, the Division remains concerned that, as proposed, House Bill 1069 could add additional financial burdens to a tenant experiencing an already costly infestation and recommends amendments to address these potential burdens. Unlike Senate Bill 529, House Bill 1069 does not explicitly provide that landlords are financially responsible for the cost of inspecting and treating units. The Division recommends an amendment to include a provision stating that “except as otherwise provided by law, a landlord is responsible for all costs associated with an inspection for, and the treatment of, bedbugs.”

Additionally, § 8-1004(E) permits landlords to shift the cost of treatment to tenants for not only their unit but contiguous units when a landlord decides that a tenant did not comply with inspection and treatment instructions. This provision overlooks the fact that landlords have a financial incentive to shift the cost to tenants even when unreasonable or unfair to do so. The preparation required for bed bug treatments is often expensive and unexpected. As House Bill 1069 provides that a tenant is solely financially responsible for all costs associated with preparing a unit for bed bug treatments, including the isolation and cleaning of belongings, the short turnaround time between inspection and treatment may be financially and logistically impossible for otherwise motivated low-income residents to complete. *See* House Bill 1069 § 8-1004(C)(2). Moreover, bed bugs readily travel between units and can become temporarily inactive if hosts are not readily available.² As such, the units for which residents diligently report and prepare for treatment may require repeated treatments as the bed bugs hide and reemerge. Therefore, permitting landlords to unilaterally decide to shift the cost could result in residents facing unfair charges for additional treatments based on unreasonable accusations of non-compliance. For these reasons, the Division recommends an amendment striking § 8-1004(E) of the bill.

² *See* The Federal Bed Bug Workgroup, *Collaborative Strategy on Bed Bugs*, pg. 9 (“Because bed bugs can move between housing units, the best IPM practice is to inspect adjacent areas or units, units above and below the infested unit, and units across the hall.”).

The Honorable Kumar Barve
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The Division requests that the Environment and Transportation Committee give House Bill 1069 a favorable report with amendments.

cc: The Honorable Marvin E. Holmes, Jr.
The Honorable Nick Charles
Members, Environment and Transportation Committee