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Testimony of Delegate Samuel I. Rosenberg
Before the House Environment and Transportation Committee
In Support Of House Bill 101
Landlord and Tenant - Repossession for Failure to Pay Rent –
Lead Risk Reduction Compliance

Mister Chair and Members of the Committee:

This bill is a necessary measure to ensure that landlords are upholding the existing obligations they have to their tenants. Landlords and tenants both have obligations to one another. The landlord is expected to provide a safe and livable property, free of obvious hazards to health. The tenant is expected to pay rent on time and keep the property in decent condition. However, the balance of power is significantly favored towards the former in certain court proceedings.

Baltimore rentals have more eviction notices per capita than any other city. A landlord who brings a court action for unpaid rent finds quick resolution: a trial to recover missing rent and forced 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 not complied with existing law, even when the evidence is uncontested and judges have on many occasions found for the landlord even when lead hazards have been noted in the unit.¹

Under House Bill 101, a landlord must provide direct evidence that the affected property is registered with the Maryland Department of the Environment's Lead Registry Online System with a Full Risk Reduction Certificate. These documents will be accessible in February 2022 by both landlords and tenants. Secretary of the Environment Ben Grumbles has confirmed that MDE's development of the new Lead Registration Compliance and Accreditation (LRCA) database system is on schedule.² This is an important measure as the Fair Housing Center of Maryland found that one third of Baltimore City properties surveyed were not registered with the MDE.³

¹ Doug Donovan and Jean Marbella, *Dismissed: Tenants Lose, Landlords Win in Baltimore's Rent Court*, Baltimore Sun (April 26, 2017) available at: <http://data.baltimoresun.com/news/dismissed/>.

² See January 8, 2021 letter from Secretary Grumbles, uploaded alongside this testimony.

³ *Repossession for Failure to Pay Rent – Lead Risk Reduction Compliance: Hearing on HB 049 before H. Env't and Transp. Comm.*, 2021 Leg., (statement of Carol Ott, Tenant Advocacy Dir. Fair Hous. Ctr. of Md.)

HB 101 would 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 101 would forbid landlords' use of the judiciary to put tenants on the streets if the landlords themselves cannot demonstrate compliance with the law.

A study by the Public Justice Center found that about half of landlords submitted invalid registration and licensing credentials to the court to their lawsuits docketed.⁴ HB 101 acknowledges that landlords may require more time to compile evidence of regulatory compliance. This bill extends the timeline for either party to collect evidence relevant to issues in the case from one day to ten days. That timeframe can be further extended with consent from both parties.

The Court of Appeals 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.⁵ At an aggregate level, these toxin-induced symptoms increase criminality, lower education rates, and hurt employment prospects.⁶ According to the State of Maryland Lead Poisoning Prevention Commission, more than one third of the 1,483,835 buildings built before 1978 likely contain serious lead hazards. Of the properties found to not be registered with MDE, 90% were located in low-income, majority black neighborhoods. Many of these buildings were built before 1978.⁷

Landlords already have a statutory obligation to minimize the risk of lead in homes. HB 101 would aid enforcement of current law by requiring landlords who utilize the courts to prove that they themselves come to court with clean hands, in this case, with a valid certificate of compliance from the Maryland Department of the Environment.

I urge the committee to give House Bill 101 a favorable report.

January 17, 2022

⁴ Public Justice Center. (2015). Justice Diverted- How Renters Are Processed in the Baltimore City Rent Court. <https://abell.org/sites/default/files/files/cd-justicediverted216.pdf>

⁵ 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>.

⁶ 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/>

⁷ *Repossession for Failure to Pay Rent – Lead Risk Reduction Compliance: Hearing on HB 049 before H. Env't and Transp. Comm.*, 2021 Leg., (statement of Anna Davis, Lead Comm. Mem., MD Dept. of the Enviro.).