

CHESAPEAKE PSR

PHYSICIANS FOR SOCIAL RESPONSIBILITY



HB0101 – Landlord and Tenant - Repossession for Failure to Pay Rent - Lead Risk Reduction Compliance

Hearing before the House Environment and Transportation Committee,

Jan. 18, 2022

Position: SUPPORT (FAV)

The Chesapeake Physicians for Social Responsibility (CPSR) is statewide evidenced-based, organization of over 800 physicians, other health professionals and supporters, that addresses the existential public health threats: nuclear weapons, the climate crisis and the issues of pollution and toxics' effect on health as seen through the intersectional lens of environmental, social and racial justice. As an organization founded by physicians, we understand that prevention is far superior to treatment in reducing costs; death, illness, injury, and suffering. We are writing in support of HB 101.

HB0101 would ensure that District Court rent dockets throughout Maryland provide no safe harbor for landlords who operate in violation of the state Reduction in Lead Risk in Housing law and/or local rental licensing ordinances. Similar legislation passed in the House as recently as 2021. We urge the Committee to report Favorable on this bill.

HB0101, like HB0174, would effectively bar unlicensed, law-breaking landlords from taking advantage of the court's specialized, "summary" procedures for eviction for non-payment of rent. This bill goes one step further than HB0174 by targeting non-compliance with Maryland Department of the Environment's (MDE) lead inspection requirements for rental housing.

By blocking law-breaking landlords' use of a go-to debt collection process, this bill eliminates the financial incentive to ignore the public safety measures of MDE and city/county housing agencies. HB0101 is a much-needed measure to boost the enforcement of lead inspection and rental licensing requirements.

HB0101 strengthens the barrier against rogue landlords' use of 'Rent Court'

Although the District Court requires self-reporting of lead inspection and rental license compliance on the Failure to Pay Rent form complaint, more is needed to stop unlicensed landlords' routine use of the courts while they violate the law by leasing units without a valid lead inspection certificate or rental license

HB0101 would require all landlords to demonstrate, by preponderance of evidence at the trial of a Failure to Pay Rent action, that there is a valid lead inspection certificate and rental license for the property. To meet that burden, a landlord would need only "direct evidence" of these records. A physical copy or electronic copy would be sufficient as direct evidence. ***Electronic copies of lead inspection records are now widely available via the MDE's new Lead Rental Certification and Accreditation database*** (<https://mde-lrca.maryland.gov/Certificates.aspx>).

By meeting the "direct evidence" burden, the landlord may proceed with case and may win a judgment for possession. Where the landlord fails to meet this burden of proof, HB0101 leaves it to judges to decide the final disposition of the action.

Importantly, HB0101 clarifies that it is neither the court nor the tenant who should carry the burden of identifying the lead risk reduction compliance and rental license compliance of rental properties. This bill does not require clerks to inspect records or rule on them – that is the fact-finding duty of the judge. If compliance is contested and additional evidence or testimony is needed, HB0101 provides that judges may postpone the Failure to Pay proceeding for up to **10 days** to allow either party to return with the need documentation or witnesses.

This bill allows the judge dismiss or postpone the case if there is no proof of compliance. This bill puts protections in place for renters potentially facing a toxic exposure in their homes. Lead is a documented neurotoxin. Common sources of exposure are peeling and chipping paint, drinking water, soil, and consumer products including makeup and toys. Children who live in houses built before 1950 have a much higher likelihood of having elevated lead levels than in children living in [houses built after 1978 when lead was banned from house paint](#) suggesting the importance of this as a source of lead toxicity. Children are the most vulnerable to this preventable danger. Children ingest more, absorb more, and the developing brain is more sensitive to the effects of lead exposure than the adult brain. No known threshold for the effects of lead including on IQ has been identified. There are no known safe levels for exposure to lead including on its effects on IQ.

At very high levels, lead exposure can cause vomiting, lethargy, seizures and death. At lower levels, lead exposure can be responsible for decreasing IQ, increased distractibility, impulsivity, short attention span, and inability to follow directions. CDC and HUD have reduced action levels to 5 micrograms per deciliter. [Even levels below this](#) can reduce a child's intellectual, and academic ability, and where prenatal exposure can lead to lower birth weight. A recent study has found [hyperactivity in children whose levels averaged 3.5 microgram per deciliter](#). Each IQ point raises worker's productivity and the [lifetime](#)

[economic losses](#) in the United States attributable to lead exposure have been estimated to be between \$165-233 billion in the cohort of children < or equal to 6 years of age in 2006 who had blood levels 2 micrograms per deciliter or higher. This cohort has an estimated total loss of 13 million IQ points from lead poisoning. Since there is no blood lead level that is considered safe, when estimates include any measurable blood levels, the total IQ loss for that group of children <6 with any measurable lead, goes up to [23 million collective IQ points](#).

Primary prevention, which is removing the sources of lead before exposure occurs, is the most reliable and cost-effective way to protect our children according to a policy statement by the American Academy of Pediatrics. The authors reminded pediatricians that education on hand washing and dust control has no effect on reducing lead levels. The Academy goes on to urge pediatricians and parents to promulgate regulations to test children and housing both before and after abatement, and call for "[local or state governments, in consultation with pediatricians, develop policies and regulations](#) requiring the remediation of lead-contaminated housing and child care facilities, including the elimination of lead hazards during transfer of rental units or renovation or demolition of older housing."

A Baltimore Sun investigative report published April 2017 reported that Baltimore renters had more eviction notices per capita than in any other city and judges found in favor of the landlord [even in cases where inspectors found that there were lead hazards noted in the rental unit](#). In 2013, The Abell Foundation report "Justice Diverted" based on a survey of people brought before renter's court, found that 41% noted flaking or peeling paint. The majority of defendants in rent court are black women with children and this suggests who are the victims of this injustice. One of the recommendations that the report made was: "[demand that landlords and agents document their rent claims, as well as their alleged compliance with licensing and lead-risk legal requirements, and hold them accountable through consistent application of existing legal standards and tenant protections](#)."

Requiring proof that landlords have passed lead inspections before they can bring cases to rent court is an important way to help our children when their family's interface with the judicial system. If we ignore this opportunity, this will represent a public health, ethical and as well as fiscal failure. We all pay for poisoning our children.

Although I believe that a shortage of affordable, safe housing is an underlying problem that must be addressed, allowing our children to live in lead-contaminated housing is not an acceptable solution. **Chesapeake Physicians for Social Responsibility, strongly urges the passage of House Bill 101. We are part of Renters United Maryland Coalition**

**Gwen L. DuBois MD, MPH. gdubois@jhsph.edu
President Chesapeake Physicians for Social Responsibility**