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March 27, 2023

To: The Honorable Luke Clippinger  
Chair, Judiciary Committee

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

Re: Senate Bill 100 – Real Property – Actions to Repossess – Proof of Rental Licensure  
(SUPPORT)

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The Consumer Protection Division of the Office of the Attorney General (the “Division”) supports Senate Bill 100 sponsored by Senator Hettleman, which ensures that a landlord complies with legal requirements for renting a residential property before the landlord can evict a tenant through a summary ejectment action. Senate Bill 100 provides, however, for exceptions to allow a landlord to proceed with a summary ejectment action without complying with licensing requirements if the tenant poses a clear and imminent danger, if the tenant’s wrongful conduct caused the lack of licensure, an administrative error caused the lack of licensure, or if the license covers multiple units and the unit subject to the summary ejectment action lacks a license, but has met any inspection requirements and is free from life, health, and safety defects.

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. In several jurisdictions throughout Maryland, a landlord is required to be licensed before renting a property. However, currently, there is no statutory requirement that the landlord plead facts that demonstrate compliance with this requirement before using the courts to evict a tenant. Furthermore, courts have taken a piecemeal approach to the issue. It is well-settled that a landlord that is required to be licensed, may not use the courts to evict a tenant for failure to pay rent if they are not so licensed. *See McDaniel v. Baranowski*, 419 Md. 560 (2011). However, a landlord, that is required to be licensed, may use the courts to evict a holdover tenant, at least if the landlord is not also seeking past due rent payments, without obtaining the license. *See Velicky v. Copycat*, 476 Md. 435 (2021). Senate Bill 100 would codify, and broaden, the *McDaniel* principle and overturn the *Copycat* holding. In overturning *Copycat*,

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however, Senate Bill 100 recognizes a need, and allows, for the *Copycat* principal in the narrow circumstances when a tenant presents a clear and imminent danger or where a landlord can demonstrate the tenant's wrongful conduct resulted in the rental license to be revoked, suspended, or denied, when an administrative error resulted in the lack of a license, or when a license would cover multiple rental units and the unit subject to the summary ejectment action lacks a license, but has met any inspection requirements and is free from life, health, and safety defects.

Additionally, Senate Bill 100 would permit either party a postponement to seek additional evidence to support or refute the plead assertions of a valid rental licensure or qualifying exception. 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. By permitting a limited continuance, Senate Bill 100 would provide tenants a fair opportunity to refute an improper certification by a landlord who has not met these prerequisites for renting an apartment.

Senate Bill 100 is a reasonable measure that will help ensure that a landlord who wishes to use the courts to evict a tenant was authorized to rent that unit to the tenant in the first place. As such, the Division requests that the Judiciary Committee give Senate Bill 100 a favorable report.

cc: Members, Judiciary Committee