



## HB 36 - Real Property – Actions to Repossess – Proof of Rental Licensure

Hearing before the House Judiciary Committee on January 19, 2023

Position: SUPPORT (FAV)

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House Bill 36 will **ensure that local rental licensing laws in Maryland retain their use as a powerful public safety tool by requiring landlord compliance with city and county licensing laws as a prerequisite to using Maryland’s courts to evict tenants.** HB 36 is identical to last year’s HB 703/SB 563, which passed the House (90-45) and Senate (47-0), but was vetoed by Governor Hogan without time for a veto override. Arundel Community Development Services, Inc. (ACDS) supports House Bill 36 and urges a favorable report from the Committee.

ACDS serves as Anne Arundel County’s nonprofit housing and community development agency, helping Anne Arundel County residents and communities thrive through the provision of safe and affordable housing opportunities, programs to prevent and end homelessness, and community development initiatives. In fulfilling this role, ACDS administers grants to nonprofit partners, directly develops and implements programming, and advises the County on housing and community development legislation and policy initiatives related to affordable, safe and habitable housing for County residents.

**Currently, if a local jurisdiction requires that a residential rental property have a rental license, then that property must in fact be licensed in order for a landlord to make use of the Failure to Pay Rent court process.** This requirement is a result of a 2011 Court of Appeals decision called *McDaniel v. Baranowski*. (419 Md. 560, 19 A.3d 927). In that case, the Court held that if a landlord lacks a rental license for a property that is required by law to be licensed, then that landlord does not have “claimant status” for bringing a Failure to Pay Rent action in court. In other words, **if a landlord lacks a license when a license is required by local law, the landlord does not have standing to file a court action for Failure to Pay Rent.**

Immediately after the Court of Appeals decided *McDaniel*, the Court’s standard form Complaint for Failure to Pay Rent was modified to reflect the Court’s conclusion. The standard court form for Failure to Pay Rent currently includes a section where **the landlord must indicate whether the property is required to be licensed, and if so, the landlord must provide a rental license number as a required element of the Complaint.** However, while current law clearly prevents illegally operating landlords from using the courts to evict in Failure to Pay Rent cases, landlords are able to circumvent the licensing requirement by instead filing Tenant Holding Over and Breach of Lease cases.

**Under current law, landlords may disregard County licensing laws designed to protect tenant health and safety so long as the landlord files a Tenant Holding Over or Breach of Lease case instead of a Failure to Pay Rent case, even if they have failed to comply with their local licensing laws. An action for Failure to Pay Rent filed by unlicensed landlord will be summarily dismissed, generally as a preliminary matter when the case is called. However, an action by the same unlicensed landlord against the same tenant for Tenant Holding Over or Breach of Lease will go forward, completely unaffected by the fact that the property is being rented illegally. This loophole has not gone unnoticed. Tenant Holding Over filings, especially, are increasingly being used in lieu of Failure to Pay rent actions. The courts report an increase of 116% in Tenant Holding Over actions from FY 2018 to FY 22.**

It is important to note that HB 36 does not create any new rental licensing requirements. Rather, HB 36 simply applies the Court's sound reasoning from the *Baranowski* case to Tenant Holding Over and Breach of Lease cases. Landlords are already required obtain a rental license in those jurisdictions where licenses are required and, of course, most landlords do exactly that. This bill simply ensures that there are consequences for those few landlords who don't follow the law, *regardless of the type of eviction case they file.*

**For the reasons noted above, ACDS urges the Committee to issue a FAVORABLE report on HB 36.**