



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

Hearing before the House Judiciary Committee on January 19, 2023

Position: SUPPORT (FAV)

January 17, 2023

Honorable Chair Clippinger and Members of the Committee:

We are writing to express our strong support for HB36. CASA is the largest membership-based immigrant rights organization in the mid-Atlantic region, with more than 90,000 members in Maryland. Our mission is to create a more just society by building power and improving the quality of life in working class and immigrant communities. We envision a future where our members stand in their own power, our families live free from discrimination and fear, and our diverse communities thrive as we work with our partners to achieve full human rights for all.

For nearly forty years, CASA has employed grassroots community organizing to bring our communities closer together and fight for justice, while simultaneously providing much needed services to these communities, helping to ensure that low-income immigrants are able to live rich and full lives.

HB36 is identical to SB 563, which passed the House (90-45) and Senate (47-0) in 2022 but was vetoed by Gov. Hogan. HB 36 would stop landlords who do not have an operating license from using streamlined court processes (Failure To Pay Rent, Tenant Holding Over, and Breach of Lease) from evicting tenants in localities that have a licensing law. Licensing laws protect public health and safety through periodic inspections. Like any other business, if a landlord wants to file suit in Maryland courts, they must be licensed in any jurisdiction that requires licensure.

After the Supreme Court of Maryland's decision in *Velicky v. Copycat Holdings, LLC*, 476 Md. 435 (2021), landlords do not need a license to evict on a Tenant Holding Over (THO) action, regardless of the landlord's real motive. This loophole allows them to evade the licensing requirements set out by *McDaniel v. Baranowski*, 419 Md. 560 (2011), simply by filing a Tenant Holding Over action instead of a Failure to Pay Rent (FTPR) action.

Licensing requirements are important because they encourage landlords to comply with health and safety requirements before any court has to get involved. Allowing landlords without a license to evict tenants has two important negative effects.

First, it incentivizes landlords to give short-term (month-to-month) contracts and continue operating without a license. If they need a license to evict for other reasons, but

not THOs, they will just continue evading the licensing requirements for the next tenant, leaving properties in unsafe or hazardous conditions and swindling the governments out of revenues necessary for code enforcement.

Second, it rewards bad landlords and punishes good tenants. Not all jurisdictions allow a tenant to research the landlord's licensure status. Under the current law, a landlord can fail to get a license and fly under the radar collecting rent only until the tenant complains about a code violation in good faith. At that point, a landlord may have been illegally collecting rent for years, and still be allowed to evict the good-faith tenant without a penalty. Thus, the law currently discourages tenants from taking action against unsafe conditions. Tenants who come forward and report their unlicensed landlord for dangerous conditions risk a retaliatory eviction. Although retaliation is illegal, this defense is extremely difficult to prove, the damages are small, the protection is time-limited, and is rarely approved by judges.

Licensing is a means to end – the insurance of good quality rental housing in the jurisdictions that use licensing. Allowing a certain subset of landlords to evade this requirement in order to evict deprives our members of the opportunity to attain that goal. The law should make licensing requirements consistent across all landlords and across all forms of eviction, whether FTPR or THO or Breach of Lease. Doing so will incentivize landlords to keep their properties up to code and their records up to date. This is the minimum we should expect from business operations in Maryland, especially where it concerns the health and safety of millions of Marylanders, including our members.

CASA is a member of the Renters United Maryland, a statewide coalition of renters, organizers, and advocates, and **we urge the Committee's report of Favorable on HB 36.**

Best Regards,

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Supervising Attorney
CASA