



Bill Title: House Bill 36, Real Property – Actions to Repossess – Proof of Rental Licensure

Committee: Judiciary

Date: January 19, 2023

Position: Favorable with Amendments

This testimony is offered on behalf of the Maryland Multi-Housing Association (MMHA). MMHA is a professional trade association established in 1996, whose members consist of owners and managers of more than 210,000 rental housing homes in over 958 apartment communities. Our members house over 538,000 residents of the State of Maryland. MMHA also represents over 250 associate member companies who supply goods and services to the multi-housing industry including towing companies.

This bill requires a landlord (in a jurisdiction that requires licensure) to plead and demonstrate when filing a written complaint to repossess residential property that the property is either (1) licensed in compliance with applicable local rental licensing requirements or (2) exempt from applicable local rental licensing requirements. These requirements are generally applicable upon the filing of a failure to pay rent, tenant holding over, or breach of lease action (subject to limited exception, including in circumstances involving a clear and imminent danger). At trial, the landlord must demonstrate to the satisfaction of the court that the property is licensed or exempt. A landlord may provide electronic proof of licensure to satisfy the requirement

MMHA supports the intent of this bill. However, MMHA has the following concerns and suggested amendments to resolve the issues.

1. **Time of Filing:** The bill requires the housing provider to demonstrate on two separate occasions whether the property is licensed or exempt in the local jurisdiction. The housing provider must do so “ON THE FILING OF A WRITTEN COMPLAINT TO REPOSSESS RESIDENTIAL PROPERTY” (see Page 4, lines, 21-29) and “AT TRIAL”. (See page 4, line 32 through and including page 5, lines 1-2). The housing provider’s burden should not be before the clerk of the court upon the filing of a complaint but rather at trial (page 4, line 32-33). MMHA requests striking page 4, lines 21-29.

2. **Local Government Lapses:** In *Assanah-Carroll v. Law Offices of Edward J. Maher PC*, Misc. No. 11, Sept. Term, 2021 (filed July 28, 2022), the Court of Appeals held that, “Where a municipality or county enacts a rental license law which conditions the performance of a residential lease upon the issuance of a rental license, and a landlord fails to possess a valid license for a period of the tenant’s occupancy, a landlord may not utilize the courts, whether through a common law breach of contract action, or a statutory action arising under Title 8 of the



Maryland Code’s Real Property Article to recover unpaid rent that is attributable to the unlicensed period. Further, the Court held that the aforementioned prohibition does not apply in cases where a landlord can demonstrate that the tenant’s wrongful actions caused the licensing authority to suspend, revoke, or refuse to grant or renew the rental license. **The Court did not clarify the issue of a license lapsing due to the actions of local government, which MMHA’s members have experienced in local jurisdictions.** In jurisdictions with rental licensing, the recent holding now inextricably links the ability of a local government to effectively implement and facilitate its rental licensing program with the ability of property owners within that jurisdiction to undertake actions to collect rent.

On page 4, in line 12, after “TENANT” insert “OR THE COUNTY, MUNICIPALITY OR ANY OTHER JURISDICTION”.

3. Local Rental Licensing Systems: Jurisdictions throughout the State with rental licensing systems - Anne Arundel County, Baltimore City, Howard County Prince George’s County, and Montgomery County - provide one license for all units in a multi-family dwelling property. See attached email from Kathleen Byrne from Department of Housing and Community Development in Baltimore City. Under this bill and as applied in these jurisdictions, if one license has 20 units and one unit is in violation, that housing provider would be prevented from filing and pursuing judgment in a failure to pay rent, breach of lease or tenant holding over against any other unit that is compliant. This is extremely problematic for housing providers. This good faith language seeks to resolve the gap between the intent of the bill and the rigid rental licensing systems at the local level.

On page 5, after line 4, insert:

“(3) IN JURISDICTIONS WHERE MULTIPLE RENTAL UNITS ARE LICENSED UNDER ONE LICENSE, ONLY THE UNIT OR UNITS THAT ARE DENIED, SUSPENDED OR REVOKED UNDER THE REQUIREMENTS ESTABLISHED IN THE LOCAL JURISDICTION SHALL BE DEEMED UNLICENSED FOR THE PURPOSES OF THIS SECTION.

For the foregoing reasons, MMHA respectfully requests a **favorable report with amendments on House Bill 36.**

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