



House Bill 645

Real Property – Landlord Defenses in Nuisance Actions

MACo Position: **OPPOSE**

To: Environmental Matters Committee

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From: Natasha Mehu

The Maryland Association of Counties **OPPOSES** House Bill 645. It is an overly broad defense against nuisance actions that is best determined and implemented on a local rather than state-wide level.

This bill would establish a legal defense for a landlord to any nuisance action brought under State or local law if the tenant's actions are the sole basis for the nuisance action and the landlord provides evidence that they have filed an action in the District Court for repossession of the premises. This would provide a defense to at least 18 State and local nuisance laws.

This broad defense is problematic for a number of reasons - most importantly, because it has the practical effect of overriding the intent of local jurisdictions in the management of the scope of their own local nuisance laws. Such an approach inhibits a local government from considering the potential defense in the proper context. For instance, in cases where the affected statute or ordinance is directly at odds with the proposed defense, the proposed defense would supersede the intent of established law. This is the case with the Baltimore City "padlock" law (Baltimore City Code, Art. 19, Subtitle 43, §43-5(a)). This ordinance allows the Baltimore City Police Commissioner to order the proper relief without proof the owner, operator, or tenant knew of the existence of the nuisance at issue. Likewise the State "drug nuisance" law under (MD. Code Ann., Real Prop. §14-120(i)) states that a court may order relief without proof the defendant knew of the nuisance. These examples demonstrate that this is a one-size-fits-all approach that should be implemented on a local rather than state-wide level.

Additionally, this broad defense can be abused by unlawful landlords who play a significant role in the existence of a nuisance caused by a tenant. Through action or inaction, a landlord can implicitly or explicitly allow nuisance activity on their properties. This bill would give them an unwarranted defense.

MACo believes that such a defense to a nuisance action should not be widely applied across all local nuisance laws but should rather be determined and implemented by local governing bodies. For these reasons MACo urges an **UNFAVORABLE** report on HB 645.