
CITY OF BALTIMORE

BRANDON M. SCOTT
Mayor



DEPARTMENT OF LAW
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February 18, 2026

The Honorable President and Members
of the Baltimore City Council
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 25-0141 – Rental Dwelling Health and Safety Enforcement Act

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 25-0141 for form and legal sufficiency. The bill would make changes to several sections in Article 13 of the City Code concerning rental dwellings and corresponding sections of the Building Code and Section 41 of Article 1 of the City Code.

The General Assembly has given the Mayor and City Council broad powers to legislate concerning the use and operation of buildings, to authorize a government official to enter property in furtherance of government duties, to license and regulate businesses, and to exercise the police and general welfare powers. City Charter, Art. II, §§ (1), (5) (17), (27), (47). This bill is generally consistent with these powers, but there are a few required changes.

First, the bill would require the City's Department of Housing and Community Development to keep a registry of rental inspectors, who are already state-licensed home inspectors. It would require those inspectors to certify that they have no financial interest in the property inspected. It would also require those inspectors to issue a notice of satisfactory compliance with Section 116.1.1 of the City's Building Code concerning unsafe or uninhabitable structures when inspecting a rental in Baltimore City. Although maintaining a registry and information about home inspectors acting as rental inspectors and removing them from that registry is legally permissible, prohibiting a state-licensed inspector from inspecting rentals for failure to comply with local law conflicts with state law and is preempted. *See, e.g., Heubeck v. City of Baltimore*, 205 Md. 203, 208 (1954) ("If a local law or ordinance conflicts in any manner with the Constitution or a Public General Law, then the local law or ordinance is invalid" citing Section 3 of Article XI-A of the Maryland Constitution); Md Code, Bus. Occ., § 16-3A-06 ("While a home inspector license is in effect, it authorizes the licensee to provide home inspection services."). Therefore, Section 5-7 (b)(1)(II)(B) must be deleted. Similarly, the penalties for failure to comply with this section must be removed. An amendment to this effect is attached to this bill report as **Amendment No. 1**.

Similarly, Section 5-7(b)(3) of the bill prohibits the use of the same inspector or company repeatedly during a certain period. This impairs a person's freedom to contract with any licensed home inspector. *See, e.g., Maryland-Nat'l Cap. Park & Plan. Comm'n v. Washington Nat. Arena*, 282 Md. 588, 606 (1978) ("reluctance on the part of the judiciary to nullify contractual arrangements on public policy grounds also serves to protect the public interest in having individuals exercise broad powers to structure their own affairs by making legally enforceable promises, a concept which lies at the heart of the freedom of contract principle.")(citations omitted); *Baltimore & O. S. W. Ry. Co. v. Voigt*, 176 U.S. 498, 505 (1900) ("it must not be forgotten that the right of private contract is no small part of the liberty of the citizen, and that the usual and most important function of courts of justice is rather to maintain and enforce contracts than to enable parties thereto to escape from their obligation on the pretext of public policy, unless it clearly appear that they contravene public right or the public welfare"). The City cannot legislate that licensed state home inspectors are prohibited from being hired to perform the job for which they were licensed. *Heubeck*, 205 Md. at 208; Md Code, Bus. Occ., § 16-3A-06. An amendment to remove the prohibition on using the same inspector is attached to this report as **Amendment No. 2**.

Section 5-15(b)(10)(I) and (II) lists as causes for denial, suspension or revocation of a rental license the act of demanding, collecting or disclosing information relating to the immigration status of a tenant. Conditioning the receipt or renewal of a City license on the speech or non-speech of the property owner violates the Constitution's First Amendment. U.S. Const., amend. I; *see, e.g., Perry v. Sinderman*, 408 U.S. 593, 597 (1972) ("For at least a quarter-century, this Court has made clear that even though a person has no 'right' to a valuable governmental benefit and even though the government may deny him the benefit for any number of reasons, there are some reasons upon which the government may not rely. It may not deny a benefit to a person on a basis that infringes his constitutionally protected interests — especially, his interest in freedom of speech. For if the government could deny a benefit to a person because of his constitutionally protected speech or associations, his exercise of those freedoms would in effect be penalized and inhibited. This would allow the government to 'produce a result which (it) could not command directly'")(citations omitted); *Valle Del Sol Inc. v. Whiting*, 709 F.3d 808, 823 (9th Cir. 2013)(government "may not, consistent with the First Amendment, use a content-based law to target individuals for lighter or harsher punishment because of the message they convey."). An amendment to remove this language is attached to this bill report as **Amendment No. 3**.

The bill's prohibitions in Section 5-15(b)(10)(III) and (IV) on renting to someone solely based on immigration status or seeking to recover possession of property for that reason conflict with the City's Public Local Laws that permit the landlord to terminate tenancies without articulating a reason. Baltimore City Code of Public Local Laws §§ 9-11 through 9-14 (Tenants for Years or Less or at Will); Md. Const., Art, 11-1, § 3; *see, e.g., McDaniel v. Baranowski*, 419 Md. 560, 578 (2011)("the landlord's entitlement to enforcement of his superior interest in the premises is a given, once the failure to pay rent is proven and appropriate notice is provided. Licensure to operate the premises, however, is not mentioned anywhere in Section 8-401 [of the Real Property Article of the Maryland Code]. None of its legislative history, either, assists our query regarding the need for a license to operate prior to initiating summary ejectment proceedings."); *see also Herman v. Baltimore*, 189 Md. 191, 195 (1947) ("where the public general

law and the public local law of any county, city, town or district are in conflict, the public local law shall prevail.”). An amendment to remove this language is attached to this bill report as **Amendment No. 4**.

Section 5-36 of the bill creates a rental receivership process that can proceed if the rental property has been cited more than five times for failing to obtain a license under the subtitle OR the health and safety of the tenants is threatened because the property is unsafe as described in Section 9-9 of the Public Local Laws of Baltimore City and the City Building Code. The “OR” in line 15 on page 28, which is placed between the requirement that the owner is cited, and the property is unsafe, must be changed to AND because the remedy of receivership is only available in limited circumstances. Md. Code, Comm. Law, § 24-201; accord Md. Att’y Gen. Op. No. 93-009, at *2 (Feb. 11, 1993) (unpublished) (“object of a receivership is to preserve an estate intact, to keep it within the jurisdiction of the court, to prevent waste, spoilation, or deterioration pending its appropriation as may be directed by final decree.”)(citation omitted). Further, the code violations must be present for the City to have jurisdiction, as receivership is ancillary to a code enforcement action. *Williams v. Messick*, 177 Md. 605, 610 (1940). **Amendment No. 5** to this report implements this change.

Section 5-38 of the bill requires that certain parties be named in the receivership action as respondents. Section 5-38(A)(4) should be amended to include all tenants as they all would have an equitable interest in the property. Md. Code, Comm. Law, §§ 24-102; 24-201 (parties to receivership action should be those with “an apparent right to property that is the subject of the action.”); 24-302. This edit is effectuated by **Amendment No. 6** attached to this report.

Sections 5-38(B), 5-41 and 5-43(B) and (C) of the bill must be removed as they are preempted by state law, which gives the court authority over those subjects. Md. Code, Comm. Law, §§ 24-301; 24-302; *see, e.g., City of Baltimore v. Sitnick*, 254 Md. 303, 317 (1969). An amendment to effectuate these changes is attached to this report as **Amendment No. 7**.

Section 5-43(A) must be amended to provide that the court “may” appoint a receiver because state law permits, but does not require, the Court to do so and a local law compelling the appointment of a receiver would conflict with state law. Md. Code, Comm. Law, § 24-201; *Heubeck*, 205 Md. at 208. **Amendment No. 8**, attached to this report, makes this change.

Section 5-46(B) lists buyer qualifications to bid in the auction. This section must be removed as a restraint on alienation. *See, e.g., Maxwell v. Moore*, 63 US 185, 190 (1859) (“according to the whole theory of our Government, laws restricting alienation are to be strictly construed, and not extended without an express intention appears. It is inconsistent with the nature of property, if the individual owning property, or a right to property, has not the power to alienate it.”); *Karsenty v. Schoukroun*, 406 Md. 469, 515 (2008) (“The law favors the free alienation of property”). Moreover, all purchasers of property would have the same requirements to follow the City building codes after purchase. **Amendment No. 9**, attached to this report, makes this change.

“If permitted by the court” should be added at the end of line 22 on page 33 to clarify that the court controls its procedure, including allowing a receiver to request that bidders pay a fee at

an auction. Md. Code, Comm. Law, § 24-205 (court has the “exclusive jurisdiction to direct the receiver and determine any controversy related to the receivership or receivership property” including “the exercise of the receiver’s powers” and “the performance of the receiver’s duties”). **Amendment No. 10**, attached to this report, makes this change.

Before being licensed, property owners are already required to provide tenants with contact information in Section 5-5 of Article 13 of the City Code. Thus, this bill’s extensive disclosure requirements for property owning corporations in the registration statements must be removed because they are not related to any legitimate government interest in rental property and compel speech that is not necessary to further a government purpose as a company’s listed owners are not always the people to contact for tenant issues nor the ones to be named in legal actions. Md. Code, Corp., §§ 2-108 (Maryland corporations); 7-209 (foreign corporations); *see, e.g. McDaniel*, 419 Md. at 574 (“The legal relationship between landlord and tenant is governed by the contract between the parties”)(citations omitted); *see also Cal. Medical Ass’n v. FEC*, 453 U.S. 182, 197-198 (1981) (requirements must further government interest); *St. Paul Mercury Ins. Co. v. Am. Bank Holdings, Inc.*, 819 F.3d 728, 734 (4th Cir. 2016)(“Because a corporation is a fiction that can have knowledge only through its agents, knowledge of an agent acquired within the scope of the agency relationship is imputable to the corporation” and “under Maryland law, every corporation must designate a resident agent to receive service of process,” and that “[s]ervice of process on the resident agent ... constitutes effective service of process ... on the corporation.”). **Amendment No. 11**, making these changes, is attached to this report.

The City is preempted from invalidating a post office box as a valid business address as Maryland Courts have held that it is the corporate entity’s responsibility “to accurately record its resident agent’s address with SDAT and to understand the requirements restricting the use of post office box addresses.” *Mayor of Baltimore v. Prime Realty Assocs., LLC*, 468 Md. 606, 626 (2020); *accord First Horizon Home Loan Corp. v. Jay*, No. 2163, Sept. Term 2019, 2022 WL 92314, at *14 (Md. Ct. Spec. App. Jan. 10, 2022)(unreported)(“In Maryland, a properly formed corporation has the power to ‘[s]ue, be sued, complain, and defend in all courts[.]’” and state law governs that process.). This change is accomplished by **Amendment No. 12** attached to this report.

Finally, the City’s ability to mandate disclosure of a document is subject to the Maryland Public Information Act. Md. Code, Gen., Prov., § 4-101, *et. seq.* The City cannot exempt itself from this state law and permit disclosure of something that this state law or other applicable state or federal laws prevent disclosing. *Police Patrol Security Systems v. Prince George’s County*, 378 Md. 702, 710, 713-15 (2003); *see also* 86 Op. Att’y Gen. 94, 106-07 (2001). While most rental inspection records and those submitted by property owners for the inspection likely will not contain information that cannot be disclosed, Section 5-22 should be amended to include a reference to these superseding requirements. An amendment to this effect is attached to this report as **Amendment No. 13**.

If the required amendments are made, the Law Department can approve this bill for form and legal sufficiency.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Hilary Ruley". The signature is fluid and cursive, with the first name "Hilary" being more prominent than the last name "Ruley".

Hilary Ruley
Chief Solicitor

cc: Ebony M. Thompson, City Solicitor
Ty'lor Schnella, Mayor's Office of Government Relations
Ashlea Brown, Chief Solicitor
Jeffrey Hochstetler, Chief Solicitor
Michele Toth, Assistant Solicitor
Desiree Lucky, Assistant Solicitor

AMENDMENTS TO COUNCIL BILL 25-0141
(1st Reader Copy)

Amendment No. 1

On page 11, in line 33, delete “; AND”; and on page 12, delete lines 1 and 2; and on page 13, delete lines 1 through 8; and on page 3, delete line 30.

Amendment No. 2

On page 12, delete lines 13 through 16.

Amendment No. 3

On page 19, delete lines 33 through 36; and on page 20, delete lines 1 through 4.

Amendment No. 4

On page 20, delete lines 5 through 12.

Amendment No. 5

On page 28, in line 15, delete “OR” and substitute “AND”.

Amendment No. 6

On page 29, in line 16, after “(4)” insert “ALL TENANTS AND”.

Amendment No. 7

On page 29, delete lines 18 through 23; and on page 30, delete lines 20-31; and on page 31, delete lines 28 through 31; and page 32 delete lines 1 through 4.

Amendment No. 8

On page 31, in line 26, delete “SHALL” and substitute “MAY”.

Amendment No. 9

On page 33, delete lines 14 through 18.

Amendment No. 10

On page 33, in line 22, before the period, insert “IF PERMITTED BY THE COURT”.

Amendment No. 11

On page 35, in line 6, delete beginning with “together” through line 33 on the same page.

Amendment No. 12

On page 36, delete lines 1 through 6.

Amendment No. 13

On page 22, in line 23 before the colon, insert “IN ACCORDANCE WITH THE MARYLAND PUBLIC INFORMATION ACT AND ANY OTHER APPLICABLE STATE OR FEDERAL LAWS”