
By: Delegate Barve

Introduced and read first time: February 7, 1997

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Landlord and Tenant - Accrual of Unpaid Rent and Late Fees**

3 FOR the purpose of requiring a landlord to claim certain late fees in a complaint to
4 repossess any premises from a tenant who has failed to pay rent; requiring a court to
5 determine the amount of certain unpaid rent and late fees at the trial on the
6 complaint; altering certain criteria for determination of a tenant's right to
7 redemption of leased premises; altering certain rents and late fees that the tenant
8 must pay to redeem the leased property; making certain stylistic changes; and
9 generally relating to repossession of leased premises for failure to pay rent.

10 BY repealing and reenacting, with amendments,

11 Article - Real Property

12 Section 8-401

13 Annotated Code of Maryland

14 (1996 Replacement Volume and 1996 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Real Property**

18 8-401.

19 (a) Whenever the tenant under any lease of property, express or implied, verbal
20 or written, shall fail to pay the rent when due and payable, it shall be lawful for the
21 landlord to have again and repossess the premises so rented.

22 (b) (1) Whenever any landlord shall desire to repossess any premises to which
23 [he] THE LANDLORD is entitled under the provisions of subsection (a) of this section,
24 [he] THE LANDLORD or [his] THE LANDLORD'S duly qualified agent or attorney shall
25 make [his] THE LANDLORD'S written complaint under oath or affirmation, before the
26 District Court of the county wherein the property is situated, describing in general terms
27 the property sought to be repossessed, and also setting forth the name of the tenant to
28 whom the property is rented or [his] THE TENANT'S assignee or subtenant with the
29 amount of rent AND LATE FEES due and unpaid; and praying by warrant to repossess the
30 premises, together with judgment for the amount of rent AND LATE FEES due AS
31 DETERMINED BY THE COURT IN ACCORDANCE WITH SUBSECTION (C) OF THIS
32 SECTION and costs. The District Court shall issue its summons, directed to any constable

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1 or sheriff of the county entitled to serve process, and ordering [him] THE CONSTABLE
 2 OR SHERIFF to notify by first-class mail the tenant, assignee, or subtenant to appear
 3 before the District Court at the trial to be held on the fifth day after the filing of the
 4 complaint, to answer the landlord's complaint to show cause why the prayer of the
 5 landlord should not be granted, and the constable or sheriff shall proceed to serve the
 6 summons upon the tenant, assignee or subtenant in the property or upon [his] THE
 7 TENANT'S, ASSIGNEE'S, OR SUBTENANT'S known or authorized agent, but if for any
 8 reason, neither the tenant, assignee or subtenant, nor [his] THE TENANT'S, ASSIGNEE'S,
 9 OR SUBTENANT'S agent, can be found, then the constable or sheriff shall affix an attested
 10 copy of the summons conspicuously upon the property. The affixing of the summons upon
 11 the property after due notification to the tenant, assignee, or subtenant by first-class mail
 12 shall conclusively be presumed to be a sufficient service to all persons to support the entry
 13 of a default judgment for possession of the premises, together with court costs, in favor of
 14 the landlord, but it shall not be sufficient service to support a default judgment in favor of
 15 the landlord for the amount of rent due.

16 (2) Notwithstanding the provisions of paragraph (1) of this subsection, in
 17 Wicomico County, in an action to repossess any premises under this section, service of
 18 process on a tenant may be directed to any person authorized under the Maryland Rules
 19 to serve process.

20 (c) (1) If, at the trial on the fifth day indicated in subsection (b) of this section,
 21 the court is satisfied that the interests of justice will be better served by an adjournment
 22 to enable either party to procure [his] necessary witnesses, [he] THE COURT may
 23 adjourn the trial for a period not exceeding one day, except that if the consent of all
 24 parties is obtained, the trial may be adjourned for a longer period of time.

25 (2) (I) If, when the trial occurs, it appears to the satisfaction of the court,
 26 that the rent, or any part of the rent, [is] AND LATE FEES ARE actually due and unpaid,
 27 the court shall [determine]:

28 1. DETERMINE the amount of rent AND LATE FEES due AS OF
 29 THE DATE OF THE DETERMINATION, INCLUDING RENT AND LATE FEES ACCRUING
 30 AFTER THE FILING OF THE COMPLAINT;

31 2. DETERMINE A PER DIEM RATE FOR RENT AND LATE FEES
 32 FOR THE PURPOSE OF DETERMINING, UNDER SUBSECTION (E) OF THIS SECTION,
 33 ANY ACCRUAL OF RENT AND LATE FEES AFTER THE DATE OF DETERMINATION; and

34 3. [enter] ENTER a judgment in favor of the landlord for
 35 possession of the premises.

36 (II) The court may also give judgment in favor of the landlord for the
 37 amount of rent determined to be due together with costs of the suit if the court finds that
 38 the actual service of process made on the defendant would have been sufficient to support
 39 a judgment in an action in contract or tort.

40 (3) The court, when entering the judgment, shall also order the tenant to
 41 yield and render possession of the premises to the landlord, or [his] THE TENANT'S
 42 agent or attorney, within 4 days after the trial.

1 (4) The court may, upon presentation of a certificate signed by a physician
 2 certifying that surrender of the premises within this 4-day period would endanger the
 3 health or life of the tenant or any other occupant of the premises, extend the time for
 4 surrender of the premises as justice may require. However, the court may not extend the
 5 time for the surrender of the premises beyond 15 days after the trial.

6 (5) However, if the tenant, or someone for [him,] THE TENANT, at the
 7 trial, or adjournment of the trial, tenders to the landlord the rent determined by the court
 8 to be due and unpaid, together with the costs of the suit, the complaint against the tenant
 9 shall be entered as being satisfied.

10 (d) (1) Subject to the provisions of paragraph (2) of this subsection, if judgment
 11 is given in favor of the landlord, and the tenant fails to comply with the requirements of
 12 the order within 4 days, the court shall, at any time after the expiration of the 4 days, issue
 13 its warrant, directed to any official of the county entitled to serve process, ordering [him]
 14 THE OFFICIAL to cause the landlord to have again and repossess the property by putting
 15 [him] THE LANDLORD (or [his] THE LANDLORD'S duly qualified agent or attorney for
 16 [his] THE LANDLORD'S benefit) in possession thereof, and for that purpose to remove
 17 from the property, by force if necessary, all the furniture, implements, tools, goods,
 18 effects or other chattels of every description whatsoever belonging to the tenant, or to any
 19 person claiming or holding by or under said tenant. If the landlord does not order a
 20 warrant of restitution within sixty days from the date of judgment or from the expiration
 21 date of any stay of execution, whichever shall be the later, the judgment for possession
 22 shall be stricken.

23 (2) (i) The administrative judge of any district may stay the execution of a
 24 warrant of restitution, from day to day, in the event of extreme weather conditions.

25 (ii) When a stay has been granted under this paragraph, the execution
 26 of the warrant of restitution for which the stay has been granted shall be given priority
 27 when the extreme weather conditions cease.

28 [(e) In any action of summary ejectment for failure to pay rent where the landlord
 29 is awarded a judgment giving him restitution of the leased premises, the tenant shall have
 30 the right to redemption of the leased premises by tendering in cash, certified check or
 31 money order to the landlord or his agent all past due rent and late fees, plus all court
 32 awarded costs and fees, at any time before actual execution of the eviction order. This
 33 subsection does not apply to any tenant against whom 3 judgments of possession have
 34 been entered for rent due and unpaid in the 12 months prior to the initiation of the action
 35 to which this subsection otherwise would apply.]

36 (E) (1) IN ANY ACTION OF SUMMARY EJECTION FOR FAILURE TO PAY RENT
 37 WHERE THE LANDLORD IS AWARDED A JUDGMENT GIVING THE LANDLORD
 38 RESTITUTION OF THE LEASED PREMISES, THE TENANT SHALL HAVE THE RIGHT OF
 39 REDEMPTION OF THE LEASED PREMISES, AT ANY TIME BEFORE ACTUAL
 40 EXECUTION OF THE EVICTION ORDER, BY TENDERING IN CASH, CERTIFIED CHECK,
 41 OR MONEY ORDER TO THE LANDLORD OR THE LANDLORD'S AGENT ALL RENT AND
 42 LATE FEES THAT ARE DUE AS OF THE DATE OF REDEMPTION, INCLUDING:

43 (I) RENT AND LATE FEES, AS DETERMINED BY THE COURT UNDER
 44 SUBSECTION (C) OF THIS SECTION;

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1 (II) RENT AND LATE FEES ACCRUING AFTER THE DATE OF THE
2 DETERMINATION, AS CALCULATED BY THE LANDLORD ACCORDING TO THE PER
3 DIEM RATE SET UNDER SUBSECTION (C) OF THIS SECTION; AND

4 (III) ALL COURT COSTS AND FEES.

5 (2) FOR PURPOSES OF DETERMINING THE AMOUNT OF RENT AND LATE
6 FEES DUE ON THE DATE OF REDEMPTION, IF THE TENANT PRODUCES A WRITTEN
7 RECEIPT, THE TENANT SHALL BE GIVEN CREDIT FOR ANY PAYMENTS MADE AFTER
8 THE DATE OF THE DETERMINATION.

9 (3) THIS SUBSECTION DOES NOT APPLY TO ANY TENANT AGAINST
10 WHOM THREE JUDGMENTS OF POSSESSION HAVE BEEN ENTERED FOR RENT AND
11 LATE FEES DUE AND UNPAID AT THE SAME PREMISES IN THE 12 MONTHS PRIOR TO
12 THE INITIATION OF THE ACTION TO WHICH THIS SUBSECTION OTHERWISE WOULD
13 APPLY.

14 (f) The tenant or the landlord may appeal from the judgment of the District
15 Court to the circuit court for any county at any time within 4 days from the rendition of
16 the judgment. The tenant, in order to stay any execution of the judgment, shall give a
17 bond to the landlord with one or more sureties, who are owners of sufficient property in
18 the State of Maryland, with condition to prosecute the appeal with effect, and answer to
19 the landlord in all costs and damages mentioned in the judgment, and such other damages
20 as shall be incurred and sustained by reason of the appeal. The bond shall not affect in
21 any manner the right of the landlord to proceed against the tenant, assignee or subtenant
22 for any and all rents that may become due and payable to the landlord after the rendition
23 of the judgment.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 1997.