
By: Delegate Barve

Introduced and read first time: February 7, 1997

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 1997

CHAPTER ____

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~~ requiring a landlord who seeks certain rents due and late fees in actions
7 to repossess premises from certain tenants to set forth those fees in a certain
8 complaint and in a certain manner; requiring a certain court to award certain late
9 fees and certain rents due to certain landlords under certain circumstances;
10 requiring the court to make certain determinations; altering certain criteria for
11 determination of a tenant's right to redemption of leased premises; altering certain
12 rents and late fees that the tenant must pay to redeem the leased property;
13 providing for a certain credit for certain post-judgment payments from a tenant to
14 a landlord; allowing a landlord to make a certain motion to a certain court to
15 resolve a certain dispute; making certain stylistic changes; and generally relating to
16 repossession of leased premises for failure to pay rent.

17 BY repealing and reenacting, with amendments,

18 Article - Real Property

19 Section 8-401

20 Annotated Code of Maryland

21 (1996 Replacement Volume and 1996 Supplement)

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

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

2

1 **Article - Real Property**

2 8-401.

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

6 (b) (1) Whenever any landlord shall desire to repossess any premises to which
7 [he] THE LANDLORD is entitled under the provisions of subsection (a) of this section,
8 [he] THE LANDLORD or [his] THE LANDLORD'S duly qualified agent or attorney shall
9 make [his] THE LANDLORD'S written complaint under oath or affirmation, before the
10 District Court of the county wherein the property is situated, describing in general terms
11 the property sought to be repossessed, and also setting forth the name of the tenant to
12 whom the property is rented or [his] THE TENANT'S assignee or subtenant with the
13 amount of rent AND ANY LATE FEES due and unpaid; and praying by warrant to
14 repossess the premises, together with judgment for the amount of rent ~~AND LATE FEES~~
15 ~~due AS DETERMINED BY THE COURT IN ACCORDANCE WITH SUBSECTION (C) OF~~
16 ~~THIS SECTION and costs, COSTS, AND ANY LATE FEES. FOR THE PURPOSE OF THE~~
17 COURT'S DETERMINATION UNDER SUBSECTION (C) OF THIS SECTION, THE
18 LANDLORD SHALL ALSO PRAY FOR THE AMOUNT OF RENT DUE UNDER EACH
19 RENTAL PERIOD UNDER THE LEASE, THE DAY THAT THE RENT IS DUE FOR EACH
20 RENTAL PERIOD, AND ANY LATE FEES FOR OVERDUE RENT PAYMENTS. The District
21 Court shall issue its summons, directed to any constable or sheriff of the county entitled
22 to serve process, and ordering [him] THE CONSTABLE OR SHERIFF to notify by
23 first-class mail the tenant, assignee, or subtenant to appear before the District Court at
24 the trial to be held on the fifth day after the filing of the complaint, to answer the
25 landlord's complaint to show cause why the prayer of the landlord should not be granted,
26 and the constable or sheriff shall proceed to serve the summons upon the tenant, assignee
27 or subtenant in the property or upon [his] THE TENANT'S, ASSIGNEE'S, OR
28 SUBTENANT'S known or authorized agent, but if for any reason, neither the tenant,
29 assignee or subtenant, nor [his] THE TENANT'S, ASSIGNEE'S, OR SUBTENANT'S agent,
30 can be found, then the constable or sheriff shall affix an attested copy of the summons
31 conspicuously upon the property. The affixing of the summons upon the property after
32 due notification to the tenant, assignee, or subtenant by first-class mail shall conclusively
33 be presumed to be a sufficient service to all persons to support the entry of a default
34 judgment for possession of the premises, together with court costs, in favor of the
35 landlord, but it shall not be sufficient service to support a default judgment in favor of the
36 landlord for the amount of rent due.

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

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

S, OR SUBTENANT'S agent,

30 can be found, then the constable or sheriff shall affix

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

4 1. DETERMINE the amount of rent AND LATE FEES due AS OF
 5 THE DATE OF THE ~~DETERMINATION~~ JUDGMENT, INCLUDING RENT AND LATE FEES
 6 ACCRUING AFTER THE FILING OF THE COMPLAINT;

7 2. DETERMINE ~~A PER-DIEM RATE FOR RENT~~ THE AMOUNT
 8 OF RENT DUE FOR EACH RENTAL PERIOD UNDER THE LEASE, THE DAY THAT THE
 9 RENT IS DUE FOR EACH RENTAL PERIOD, AND ANY LATE FEES FOR THE PURPOSE OF
 10 DETERMINING, UNDER SUBSECTION (E) OF THIS SECTION, ANY ACCRUAL OF RENT
 11 AND LATE FEES AFTER THE DATE OF ~~DETERMINATION~~ JUDGMENT; and

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

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

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

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

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

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

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

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

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

14 (E) (1) IN ANY ACTION OF SUMMARY ~~EJECTION~~ EJECTMENT FOR FAILURE
15 TO PAY RENT WHERE THE LANDLORD IS AWARDED A JUDGMENT GIVING THE
16 LANDLORD RESTITUTION OF THE LEASED PREMISES, THE TENANT SHALL HAVE THE
17 RIGHT OF REDEMPTION OF THE LEASED PREMISES, AT ANY TIME BEFORE ACTUAL
18 EXECUTION OF THE EVICTION ORDER, BY TENDERING IN CASH, CERTIFIED CHECK,
19 OR MONEY ORDER TO THE LANDLORD OR THE LANDLORD'S AGENT ALL RENT AND
20 LATE FEES THAT ARE DUE AS OF THE DATE OF REDEMPTION, INCLUDING:

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

23 (II) RENT AND LATE FEES ACCRUING AFTER THE DATE OF THE
24 DETERMINATION, ~~AS CALCULATED BY THE LANDLORD ACCORDING TO THE PER~~
25 ~~DIEM RATE SET UNDER SUBSECTION (C) OF THIS SECTION~~ AS INDICATED IN THE
26 JUDGMENT RENDERED UNDER SUBSECTION (C) OF THIS SECTION; AND

27 (III) ALL COURT COSTS AND FEES.

28 (2) FOR PURPOSES OF DETERMINING THE AMOUNT OF RENT AND LATE
29 FEES DUE ON THE DATE OF REDEMPTION, IF THE TENANT PRODUCES A VALID
30 WRITTEN RECEIPT, THE TENANT SHALL BE GIVEN CREDIT FOR ANY PAYMENTS
31 MADE AFTER THE DATE OF THE DETERMINATION. IF THE LANDLORD QUESTIONS
32 THE VALIDITY OF THE TENANT'S WRITTEN RECEIPT, THE AMOUNT NECESSARY TO
33 REDEEM THE PREMISES SHALL BE DETERMINED BY THE COURT, UPON A MOTION
34 OF THE LANDLORD.

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

40 (f) The tenant or the landlord may appeal from the judgment of the District
41 Court to the circuit court for any county at any time within 4 days from the rendition of
42 the judgment. The tenant, in order to stay any execution of the judgment, shall give a
43 bond to the landlord with one or more sureties, who are owners of sufficient property in

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1 the State of Maryland, with condition to prosecute the appeal with effect, and answer to
2 the landlord in all costs and damages mentioned in the judgment, and such other damages
3 as shall be incurred and sustained by reason of the appeal. The bond shall not affect in
4 any manner the right of the landlord to proceed against the tenant, assignee or subtenant
5 for any and all rents that may become due and payable to the landlord after the rendition
6 of the judgment.

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