

HOUSE BILL 1077

N1

4lr1668

By: **Delegates Wilson and Mitchell**

Introduced and read first time: February 6, 2014

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Landlord and Tenant – Service of Process**

3 FOR the purpose of authorizing a constable or sheriff who is serving a summons in
4 certain landlord and tenant actions to effect service by affixing an attested copy
5 of the summons conspicuously on the common area entrance of a multiple unit
6 property under certain circumstances; establishing that a certain method of
7 serving process at a multiple unit property is conclusively presumed to be
8 sufficient service to support certain actions; making stylistic and conforming
9 changes; clarifying language; and generally relating to the service of process in
10 certain landlord and tenant actions.

11 BY repealing and reenacting, with amendments,
12 The Public Local Laws of Baltimore City
13 Section 9–3
14 Article 4 – Public Local Laws of Maryland
15 (1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)

16 BY repealing and reenacting, without amendments,
17 Article – Real Property
18 Section 8–401(a) and 8–402(a)
19 Annotated Code of Maryland
20 (2010 Replacement Volume and 2013 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Real Property
23 Section 8–401(b), 8–402(b)(1), and 8–402.1(a)
24 Annotated Code of Maryland
25 (2010 Replacement Volume and 2013 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article 4 – Baltimore City**

2 9–3.

3 Whenever any lessor shall desire to have again and repossess any premises to
 4 which he is entitled under the provisions of the preceding section, he or his duly
 5 qualified agent or attorney, shall make his written complaint under oath or
 6 affirmation, in the District Court of Baltimore City, and describing therein in general
 7 terms the property sought to be had again and repossessed as aforesaid, and also
 8 setting forth the name of the tenant to whom the same is rented, or his assignee or
 9 under tenant or tenants, with the amount of rent thereon due and unpaid; and praying
 10 by warrant to have again and repossess the premises, together with judgment for the
 11 amount of rent due and costs; and it shall thereupon be the duty of said District Court
 12 of Baltimore City forthwith to issue summons directed to a Constable of said court,
 13 ordering him to notify said tenant, assignee or under tenant forthwith to appear before
 14 the said District Court at trial to be held on the fifth day after the filing of said
 15 complaint, except as hereinafter provided, to show cause why the prayer of said lessor
 16 should not be granted as aforesaid, and the said Constable shall forthwith proceed to
 17 serve said summons on or before the third day after the filing of said complaint, upon
 18 said tenant, assignee or under tenant in said premises, or upon his or their known or
 19 authorized agent, or **IF THE PROPERTY IS A SINGLE UNIT PROPERTY**, said
 20 Constable shall affix an attested copy of said summons conspicuously upon said
 21 premises, **OR IF THE PROPERTY IS A MULTIPLE UNIT PROPERTY, SAID**
 22 **CONSTABLE SHALL AFFIX AN ATTESTED COPY OF SAID SUMMONS**
 23 **CONSPICUOUSLY ON SAID PREMISES OR UPON THE COMMON AREA ENTRANCE**
 24 **OF SAID PREMISES**, and such affixing of said summons shall, for the purposes of this
 25 subheading of this article, be deemed and construed a sufficient service upon all
 26 persons whomsoever.

27 **Article – Real Property**

28 8–401.

29 (a) Whenever the tenant or tenants fail to pay the rent when due and
 30 payable, it shall be lawful for the landlord to have again and repossess the premises.

31 (b) (1) Whenever any landlord shall desire to repossess any premises to
 32 which the landlord is entitled under the provisions of subsection (a) of this section, the
 33 landlord or the landlord's duly qualified agent or attorney shall file the landlord's
 34 written complaint under oath or affirmation, in the District Court of the county
 35 wherein the property is situated:

36 (i) Describing in general terms the property sought to be
 37 repossessed;

1 (ii) Setting forth the name of each tenant to whom the property
2 is rented or any assignee or subtenant;

3 (iii) Stating the amount of rent and any late fees due and
4 unpaid, less the amount of any utility bills, fees, or security deposits paid by a tenant
5 under § 7–309 of the Public Utilities Article;

6 (iv) Requesting to repossess the premises and, if requested by
7 the landlord, a judgment for the amount of rent due, costs, and any late fees, less the
8 amount of any utility bills, fees, or security deposits paid by a tenant under § 7–309 of
9 the Public Utilities Article;

10 (v) If applicable, stating that, to the best of the landlord's
11 knowledge, the tenant is deceased, intestate, and without next of kin; and

12 (vi) If the property to be repossessed is an affected property as
13 defined in § 6–801 of the Environment Article, stating that the landlord has registered
14 the affected property as required under § 6–811 of the Environment Article and
15 renewed the registration as required under § 6–812 of the Environment Article and:

16 1. A. If the current tenant moved into the property
17 on or after February 24, 1996, stating the inspection certificate number for the
18 inspection conducted for the current tenancy as required under § 6–815(c) of the
19 Environment Article; or

20 B. On or after February 24, 2006, stating the inspection
21 certificate number for the inspection conducted for the current tenancy as required
22 under § 6–815(c), § 6–817(b), or § 6–819(f) of the Environment Article; or

23 2. Stating that the owner is unable to provide an
24 inspection certificate number because:

25 A. The owner has requested that the tenant allow the
26 owner access to the property to perform the work required under Title 6, Subtitle 8 of
27 the Environment Article;

28 B. The owner has offered to relocate the tenant in order
29 to allow the owner to perform work if the work will disturb the paint on the interior
30 surfaces of the property and to pay the reasonable expenses the tenant would incur
31 directly related to the relocation; and

32 C. The tenant has refused to allow access to the owner or
33 refused to vacate the property in order for the owner to perform the required work.

34 (2) For the purpose of the court's determination under subsection (c) of
35 this section the landlord shall also specify the amount of rent due for each rental

1 period under the lease, the day that the rent is due for each rental period, and any late
2 fees for overdue rent payments.

3 (3) The District Court shall issue its summons, directed to any
4 constable or sheriff of the county entitled to serve process, and ordering the constable
5 or sheriff to notify the tenant, assignee, or subtenant by first-class mail:

6 (i) To appear before the District Court at the trial to be held on
7 the fifth day after the filing of the complaint; and

8 (ii) To answer the landlord's complaint to show cause why the
9 demand of the landlord should not be granted.

10 (4) (i) The constable or sheriff shall proceed to serve the summons
11 upon the tenant, assignee, or subtenant or their known or authorized agent as follows:

12 1. If personal service is requested and any of the persons
13 whom the sheriff shall serve is found on the property, the sheriff shall serve any such
14 persons; or

15 2. If personal service is requested and none of the
16 persons whom the sheriff is directed to serve shall be found on the property and, in all
17 cases where personal service is not requested[.]:

18 **A. IF THE PROPERTY IS A SINGLE UNIT PROPERTY,**
19 the constable or sheriff shall affix an attested copy of the summons conspicuously
20 **[upon] ON** the property; **OR**

21 **B. IF THE PROPERTY IS A MULTIPLE UNIT**
22 **PROPERTY, THE CONSTABLE OR SHERIFF SHALL AFFIX AN ATTESTED COPY OF**
23 **THE SUMMONS CONSPICUOUSLY ON THE PROPERTY OR ON THE COMMON AREA**
24 **ENTRANCE TO THE PROPERTY.**

25 (ii) The affixing of the summons upon the property **AS**
26 **REQUIRED UNDER SUBPARAGRAPH (I)2 OF THIS PARAGRAPH** after due
27 notification to the tenant, assignee, or subtenant by first-class mail shall conclusively
28 be presumed to be a sufficient service to all persons to support the entry of a default
29 judgment for possession of the premises, together with court costs, in favor of the
30 landlord, but it shall not be sufficient service to support a default judgment in favor of
31 the landlord for the amount of rent due.

32 (5) Notwithstanding the provisions of paragraphs (1) through (4) of
33 this subsection, in Wicomico County, in an action to repossess any premises under this
34 section, service of process on a tenant may be directed to any person authorized under
35 the Maryland Rules to serve process.

1 (6) (i) Notwithstanding the provisions of paragraphs (3) through
2 (5) of this subsection, if the landlord certifies to the court in the written complaint
3 required under paragraph (1) of this subsection that, to the best of the landlord's
4 knowledge, the tenant is deceased, intestate, and without next of kin, the District
5 Court shall issue its summons, directed to any constable or sheriff of the county
6 entitled to serve process, and ordering the constable or sheriff to notify the occupant of
7 the premises or the next of kin of the deceased tenant, if known, by personal service:

8 1. To appear before the District Court at the trial to be
9 held on the fifth day after the filing of the complaint; and

10 2. To answer the landlord's complaint to show cause why
11 the demand of the landlord should not be granted.

12 (ii) 1. The constable or sheriff shall proceed to serve the
13 summons upon the occupant of the premises or the next of kin of the deceased tenant,
14 if known, as follows:

15 A. If any of the persons whom the sheriff is directed to
16 serve are found on the property or at another known address, the sheriff shall serve
17 any such persons; or

18 B. If none of the persons whom the sheriff is directed to
19 serve are found on the property or at another known address, **IF THE PROPERTY IS A**
20 **SINGLE UNIT PROPERTY**, the constable or sheriff shall affix an attested copy of the
21 summons conspicuously [upon] **ON** the property **OR, IF THE PROPERTY IS A**
22 **MULTIPLE UNIT PROPERTY, THE CONSTABLE OR SHERIFF SHALL AFFIX AN**
23 **ATTESTED COPY OF THE SUMMONS CONSPICUOUSLY ON THE PROPERTY OR ON**
24 **THE COMMON AREA ENTRANCE OF THE PROPERTY.**

25 2. The affixing of the summons upon the property **AS**
26 **REQUIRED UNDER SUBSUBPARAGRAPH 1B OF THIS SUBPARAGRAPH** shall
27 conclusively be presumed to be a sufficient service to all persons to support the entry
28 of a default judgment for possession of the premises, together with court costs, in favor
29 of the landlord, but it shall not be sufficient service to support a default judgment in
30 favor of the landlord for the amount of rent due.

31 8-402.

32 (a) (1) A tenant under any periodic tenancy, or at the expiration of a
33 lease, and someone holding under the tenant, who shall unlawfully hold over beyond
34 the expiration of the lease or termination of the tenancy, shall be liable to the landlord
35 for the actual damages caused by the holding over.

1 (2) The damages awarded to a landlord against the tenant or someone
2 holding under the tenant, may not be less than the apportioned rent for the period of
3 holdover at the rate under the lease.

4 (3) (i) Any action to recover damages under this section may be
5 brought by suit separate from the eviction or removal proceeding or in the same action
6 and in any court having jurisdiction over the amount in issue.

7 (ii) The court may also give judgment in favor of the landlord for
8 the damages determined to be due together with costs of the suit if the court finds that
9 the residential tenant was personally served with a summons, or, in the case of a
10 nonresidential tenancy, there was such service of process or submission to the
11 jurisdiction of the court as would support a judgment in contract or tort.

12 (iii) A nonresidential tenant who was not personally served with
13 a summons shall not be subject to personal jurisdiction of the court if that tenant
14 asserts that the appearance is for the purpose of defending an in rem action prior to
15 the time that evidence is taken by the court.

16 (4) Nothing contained herein is intended to limit any other remedies
17 which a landlord may have against a holdover tenant under the lease or under
18 applicable law.

19 (b) (1) (i) Where any tenancy is for any definite term or at will, and
20 the landlord shall desire to repossess the property after the expiration of the term for
21 which it was leased and shall give notice in writing one month before the expiration of
22 the term or determination of the will to the tenant or to the person actually in
23 possession of the property to remove from the property at the end of the term, and if
24 the tenant or person in actual possession shall refuse to comply, the landlord may
25 make complaint in writing to the District Court of the county where the property is
26 located.

27 (ii) 1. The court shall issue a summons directed to any
28 constable or sheriff of the county entitled to serve process, ordering the constable or
29 sheriff to notify the tenant, assignee, or subtenant to appear on a day stated in the
30 summons before the court to show cause why restitution should not be made to the
31 landlord.

32 2. The constable or sheriff shall serve the summons on
33 the tenant, assignee, or subtenant on the property, or on the known or authorized
34 agent of the tenant, assignee, or subtenant.

35 3. If, for any reason those persons cannot be found[,]:

36 **A. IF THE PROPERTY IS A SINGLE UNIT PROPERTY,**
37 the constable or sheriff shall affix an attested copy of the summons conspicuously on
38 the property; **OR**

1 **B. IF THE PROPERTY IS A MULTIPLE UNIT**
2 **PROPERTY, THE CONSTABLE OR SHERIFF SHALL AFFIX AN ATTESTED COPY OF**
3 **THE SUMMONS CONSPICUOUSLY ON THE PROPERTY OR ON THE COMMON AREA**
4 **ENTRANCE OF THE PROPERTY.**

5 4. After notice to the tenant, assignee, or subtenant by
6 first-class mail, the affixing of the summons on the property **AS REQUIRED UNDER**
7 **SUBSUBPARAGRAPH 3 OF THIS SUBPARAGRAPH** shall be conclusively presumed to
8 be a sufficient service to support restitution.

9 (iii) Upon the failure of either of the parties to appear before the
10 court on the day stated in the summons, the court may continue the case to a day not
11 less than six nor more than ten days after the day first stated and notify the parties of
12 the continuance.

13 8-402.1.

14 (a) (1) (i) Where an unexpired lease for a stated term provides that
15 the landlord may repossess the premises prior to the expiration of the stated term if
16 the tenant breaches the lease, the landlord may make complaint in writing to the
17 District Court of the county where the premises is located if:

18 1. The tenant breaches the lease;

19 2. A. The landlord has given the tenant 30 days'
20 written notice that the tenant is in violation of the lease and the landlord desires to
21 repossess the leased premises; or

22 B. The breach of the lease involves behavior by a tenant
23 or a person who is on the property with the tenant's consent, which demonstrates a
24 clear and imminent danger of the tenant or person doing serious harm to themselves,
25 other tenants, the landlord, the landlord's property or representatives, or any other
26 person on the property and the landlord has given the tenant or person in possession
27 14 days' written notice that the tenant or person in possession is in violation of the
28 lease and the landlord desires to repossess the leased premises; and

29 3. The tenant or person in actual possession of the
30 premises refuses to comply.

31 (ii) The court shall summons immediately the tenant or person
32 in possession to appear before the court on a day stated in the summons to show cause,
33 if any, why restitution of the possession of the leased premises should not be made to
34 the landlord.

1 (2) (i) If, for any reason, the tenant or person in actual possession
2 cannot be found[,]:

3 1. **IF THE PROPERTY IS A SINGLE UNIT PROPERTY,**
4 the constable or sheriff shall affix an attested copy of the summons conspicuously on
5 the property; **OR**

6 2. **IF THE PROPERTY IS A MULTIPLE UNIT**
7 **PROPERTY, THE CONSTABLE OR SHERIFF SHALL AFFIX AN ATTESTED COPY OF**
8 **THE SUMMONS CONSPICUOUSLY ON THE PROPERTY OR ON THE COMMON AREA**
9 **ENTRANCE OF THE PROPERTY.**

10 (ii) After notice is sent to the tenant or person in possession by
11 first-class mail, the affixing of the summons on the property **AS REQUIRED UNDER**
12 **SUBPARAGRAPH (I) OF THIS PARAGRAPH** shall be conclusively presumed to be a
13 sufficient service to support restitution.

14 (3) If either of the parties fails to appear before the court on the day
15 stated in the summons, the court may continue the case for not less than six nor more
16 than 10 days and notify the parties of the continuance.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2014.