

HOUSE BILL 1077

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4lr1668

By: **Delegates Wilson and Mitchell**

Introduced and read first time: February 6, 2014

Assigned to: Environmental Matters

A BILL ENTITLED

AN ACT concerning

Real Property – Landlord and Tenant – Service of Process

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

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

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

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article 4 – Baltimore City

9–3.

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

Article – Real Property

8–401.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8-402.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8-402.1.

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

1. The tenant breaches the lease;

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

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

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

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

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

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

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

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

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

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