

HOUSE BILL 1487

N1

7lr1402

By: **Delegate Rosenberg**

Introduced and read first time: February 10, 2017

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Landlord and Tenant – Repossession for Failure to Pay Rent – Procedures**

3 FOR the purpose of requiring an action for repossession for failure to pay rent to contain a
4 certain statement on whether the property is an affected property under certain
5 lead-based paint abatement laws; authorizing a court to dismiss an action for
6 repossession for failure to pay rent that does not include certain information on the
7 status of the property as an affected property; altering certain time frames for
8 scheduling a trial date and serving a summons in an action for repossession for
9 failure to pay rent under certain circumstances; requiring a constable or sheriff to
10 refund service fees under certain circumstances; authorizing a court to adjourn a
11 certain trial to obtain documents or other proof of a claim or defense; repealing a
12 certain prohibition against raising as an issue of fact a landlord's compliance with
13 certain requirements related to lead-based paint abatement; authorizing a court to
14 take certain actions pending a decision on a certain appeal; prohibiting a landlord
15 from seeking a certain judgment for unpaid rent when there is an existing judgment
16 or warrant of restitution in effect for the same rent; prohibiting a landlord from filing
17 an action for repossession for failure to pay rent after a certain time; and generally
18 relating to actions for repossession for failure to pay rent.

19 BY repealing and reenacting, with amendments,
20 Article – Real Property
21 Section 8-401
22 Annotated Code of Maryland
23 (2015 Replacement Volume and 2016 Supplement)

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

26 **Article – Real Property**

27 8-401.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

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

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

21 (vi) **STATING WHETHER THE PROPERTY TO BE REPOSSESSED IS**
22 **AN AFFECTED PROPERTY AS DEFINED IN § 6-801 OF THE ENVIRONMENT ARTICLE;**
23 **AND**

24 **(VII)** If the property to be repossessed is an affected property as
25 defined in § 6-801 of the Environment Article, stating that the landlord has registered the
26 affected property as required under § 6-811 of the Environment Article and renewed the
27 registration as required under § 6-812 of the Environment Article and:

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

32 B. On or after February 24, 2006, stating the inspection
33 certificate number for the inspection conducted for the current tenancy as required under
34 § 6-815(c), § 6-817(b), or § 6-819(f) of the Environment Article; or

1 **(II) IF THE CONSTABLE OR SHERIFF IS UNABLE TO SERVE THE**
2 **SUMMONS AS REQUIRED UNDER THIS PARAGRAPH, THE COURT SHALL RESCHEDULE**
3 **THE HEARING TO ALLOW FOR SERVICE AT LEAST 7 DAYS IN ADVANCE OF THE NEW**
4 **HEARING.**

5 **(III) THE CONSTABLE OR SHERIFF SHALL REFUND ANY FEES FOR**
6 **SERVICE WHEN FAILURE OF THE CONSTABLE OR SHERIFF TO TIMELY SERVE A**
7 **SUMMONS IS NOT THE RESULT OF A DELAY BY THE COURT.**

8 **[(ii)] (IV)** The affixing of the summons upon the property after due
9 notification to the tenant, assignee, or subtenant by first-class mail shall conclusively be
10 presumed to be a sufficient service to all persons to support the entry of a default judgment
11 for possession of the premises, together with court costs, in favor of the landlord, but it shall
12 not be sufficient service to support a default judgment in favor of the landlord for the
13 amount of rent due.

14 **[(5)] (6)** Notwithstanding the provisions of paragraphs (1) through **[(4)]**
15 **(5)** of this subsection, in Wicomico County, in an action to repossess any premises under
16 this section, service of process on a tenant may be directed to any person authorized under
17 the Maryland Rules to serve process.

18 **[(6)] (7)** (i) Notwithstanding the provisions of paragraphs **[(3)] (4)**
19 through **[(5)] (6)** of this subsection, if the landlord certifies to the court in the written
20 complaint required under paragraph (1) of this subsection that, to the best of the landlord's
21 knowledge, the tenant is deceased, intestate, and without next of kin, the District Court
22 shall issue its summons, directed to any constable or sheriff of the county entitled to serve
23 process, and ordering the constable or sheriff to notify the occupant of the premises or the
24 next of kin of the deceased tenant, if known, by personal service:

25 1. To appear before the District Court at the trial to be held
26 on the **[fifth] 14TH** day after the filing of the complaint; and

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

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

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

1 B. If none of the persons whom the sheriff is directed to serve
2 are found on the property or at another known address, the constable or sheriff shall affix
3 an attested copy of the summons conspicuously upon the property.

4 2. The affixing of the summons upon the property shall
5 conclusively be presumed to be a sufficient service to all persons to support the entry of a
6 default judgment for possession of the premises, together with court costs, in favor of the
7 landlord, but it shall not be sufficient service to support a default judgment in favor of the
8 landlord for the amount of rent due.

9 (c) (1) If, at the trial on the **[fifth] 14TH** day indicated in subsection (b) of this
10 section, the court is satisfied that the interests of justice will be better served by an
11 adjournment to enable either party to procure their necessary witnesses **OR OBTAIN**
12 **DOCUMENTS OR OTHER PROOF OF A CLAIM OR DEFENSE**, the court may adjourn the
13 trial for a period not exceeding **[1 day] 7 DAYS**, except with the consent of all parties, the
14 trial may be adjourned for a longer period of time.

15 (2) (i) **[The information required under subsection (b)(1)(vi) of this**
16 **section may not be an issue of fact in a trial under this section.**

17 (ii) If, when the trial occurs, it appears to the satisfaction of the
18 court, that the rent, or any part of the rent and late fees are actually due and unpaid, the
19 court shall determine the amount of rent and late fees due as of the date the complaint was
20 filed less the amount of any utility bills, fees, or security deposits paid by a tenant under §
21 7-309 of the Public Utilities Article, if the trial occurs within the time specified by
22 subsection **[(b)(3)] (B)(4)** of this section.

23 **[(iii)] (II)** 1. If the trial does not occur within the time specified
24 in subsection **[(b)(3)(i)] (B)(4)(I)** of this section and the tenant has not become current since
25 the filing of the complaint, the court, if the complaint so requests, shall enter a judgment
26 in favor of the landlord for possession of the premises and determine the rent and late fees
27 due as of the trial date.

28 2. The determination of rent and late fees shall include the
29 following:

30 A. Rent claimed in the complaint;

31 B. Rent accruing after the date of the filing of the complaint;

32 C. Late fees accruing in or prior to the month in which the
33 complaint was filed; and

34 D. Credit for payments of rent and late fees and other fees,
35 utility bills, or security deposits paid by a tenant under § 7-309 of the Public Utilities
36 Article after the complaint was filed.

1 ~~[(iv)]~~ **(III)** In the case of a residential tenancy, the court may also give
2 judgment in favor of the landlord for the amount of rent and late fees determined to be due
3 together with costs of the suit if the court finds that the residential tenant was personally
4 served with a summons.

5 ~~[(v)]~~ **(IV)** In the case of a nonresidential tenancy, if the court finds
6 that there was such service of process or submission to the jurisdiction of the court as would
7 support a judgment in contract or tort, the court may also give judgment in favor of the
8 landlord for:

- 9 1. The amount of rent and late fees determined to be due;
- 10 2. Costs of the suit; and
- 11 3. Reasonable attorney's fees, if the lease agreement
12 authorizes the landlord to recover attorney's fees.

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

17 (3) The court, when entering the judgment, shall also order that possession
18 of the premises be given to the landlord, or the landlord's agent or attorney, within 4 days
19 after the trial.

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

24 (5) However, if the tenant, or someone for the tenant, at the trial, or
25 adjournment of the trial, tenders to the landlord the rent and late fees determined by the
26 court to be due and unpaid, together with the costs of the suit, the complaint against the
27 tenant shall be entered as being satisfied.

28 (d) (1) (i) Subject to the provisions of paragraph (2) of this subsection, if
29 judgment is given in favor of the landlord, and the tenant fails to comply with the
30 requirements of the order within 4 days, the court shall, at any time after the expiration of
31 the 4 days, issue its warrant, directed to any official of the county entitled to serve process,
32 ordering the official to cause the landlord to have again and repossess the property by
33 putting the landlord (or the landlord's duly qualified agent or attorney for the landlord's
34 benefit) in possession thereof, and for that purpose to remove from the property, by force if
35 necessary, all the furniture, implements, tools, goods, effects or other chattels of every
36 description whatsoever belonging to the tenant, or to any person claiming or holding by or
37 under said tenant.

1 (ii) If the landlord does not order a warrant of restitution within
2 sixty days from the date of judgment or from the expiration date of any stay of execution,
3 whichever shall be the later:

4 1. The judgment for possession shall be stricken; and

5 2. The judgment shall be applied to the number of judgments
6 necessary to foreclose a tenant's right to redemption of the leased premises as established
7 in subsection (e)(2) of this section unless the court in its discretion determines that the
8 judgment may not apply for purposes of subsection (e)(2) of this section.

9 (iii) If the landlord orders a warrant of restitution but takes no action
10 on the warrant within 60 days from the later of the date the court issues the order for the
11 warrant or the date as otherwise extended by the court:

12 1. The warrant of restitution shall expire and the judgment
13 for possession shall be stricken; and

14 2. The judgment shall be applied to the number of judgments
15 necessary to foreclose a tenant's right to redemption of the leased premises as established
16 in subsection (e)(2) of this section unless the court in its discretion determines that the
17 judgment may not apply for purposes of subsection (e)(2) of this section.

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

21 (ii) When a stay has been granted under this paragraph, the
22 execution of the warrant of restitution for which the stay has been granted shall be given
23 priority and completed within 3 days after the extreme weather conditions cease.

24 (e) (1) Subject to paragraph (2) of this subsection, in any action of summary
25 ejection for failure to pay rent where the landlord is awarded a judgment giving the
26 landlord restitution of the leased premises, the tenant shall have the right to redemption
27 of the leased premises by tendering in cash, certified check or money order to the landlord
28 or the landlord's agent all past due amounts, as determined by the court under subsection
29 (c) of this section, plus all court awarded costs and fees, at any time before actual execution
30 of the eviction order.

31 (2) This subsection does not apply to any tenant against whom 3 judgments
32 of possession have been entered for rent due and unpaid in the 12 months prior to the
33 initiation of the action to which this subsection otherwise would apply.

34 (f) (1) The tenant or the landlord may appeal from the judgment of the District
35 Court to the circuit court for any county at any time within 4 days from the rendition of the
36 judgment.

1 (2) **(I)** The tenant, in order to stay any execution of the judgment, shall
2 give a bond to the landlord with one or more sureties, who are owners of sufficient property
3 in the State of Maryland, with condition to prosecute the appeal with effect, and answer to
4 the landlord in [all] costs and damages mentioned in the judgment, and other damages as
5 shall be incurred and sustained by reason of the appeal.

6 **(II) THE COURT MAY DETERMINE THE AMOUNT OF THE BOND TO**
7 **BE PAID UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

8 (3) The bond shall not affect in any manner the right of the landlord to
9 proceed against the tenant, assignee or subtenant for any and all rents that may become
10 due and payable to the landlord after the rendition of the judgment.

11 **(G) A LANDLORD MAY NOT FILE A WRITTEN COMPLAINT FOR REPOSSESSION**
12 **OF A RESIDENTIAL PROPERTY UNDER THIS SECTION:**

13 **(1) FOR A SPECIFIC CLAIM, PRIOR TO THE EXPIRATION OF A**
14 **JUDGMENT PREVIOUSLY ENTERED OR WARRANT OF RESTITUTION PREVIOUSLY**
15 **ISSUED FOR THAT SPECIFIC CLAIM; AND**

16 **(2) MORE THAN 1 YEAR AFTER A SPECIFIC FAILURE TO PAY RENT**
17 **OCCURRED.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2017.