

SENATE BILL 501

N1, D3

7lr1963

By: **Senator Norman**

Introduced and read first time: February 1, 2017

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Wrongful Detainer Actions – Trial by Jury**

3 FOR the purpose of authorizing a party to a certain wrongful detainer action brought in
4 the District Court to elect a trial by jury in accordance with the Maryland Rules;
5 authorizing a certain party to appeal to the Court of Special Appeals no later than a
6 certain number of days from the entry of judgment, if judgment was entered by the
7 circuit court; providing for the application of this Act; and generally relating to
8 wrongful detainer actions.

9 BY repealing and reenacting, with amendments,
10 Article – Real Property
11 Section 14–132
12 Annotated Code of Maryland
13 (2015 Replacement Volume and 2016 Supplement)

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

16 **Article – Real Property**

17 14–132.

18 (a) In this section, “wrongful detainer” means to hold possession of real property
19 without the right of possession.

20 (b) This section does not apply if:

21 (1) The person in actual possession of the property has been granted
22 possession under a court order;

23 (2) A remedy is available under Title 8 of this article; or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3) Any other exclusive means to recover possession is provided by statute
2 or rule.

3 (c) A person may not hold possession of property unless the person is entitled to
4 possession of the property under the law.

5 (d) (1) If a person violates subsection (c) of this section, a person claiming
6 possession may make complaint in writing to the District Court of the county in which the
7 property is located.

8 (2) On receipt of a complaint under paragraph (1) of this subsection, the
9 court shall summons immediately the person in possession to appear before the court on
10 the day specified in the summons to show cause, if any, why restitution of the possession of
11 the property to the person filing the complaint should not be made.

12 (3) If, for any reason, the person in actual possession cannot be found, the
13 person authorized to serve process by the Maryland Rules shall affix an attested copy of
14 the summons conspicuously on the property.

15 (4) If notice of the summons is sent to the person in possession by
16 first-class mail, the affixing of the summons in accordance with paragraph (3) of this
17 subsection shall constitute sufficient service to support restitution of possession.

18 (e) A counterclaim or cross-claim may not be filed in an action brought under this
19 section.

20 (f) (1) If the court determines that the complainant is legally entitled to
21 possession, the court shall:

22 (i) Give judgment for restitution of the possession of the property to
23 the complainant; and

24 (ii) Issue its warrant to the sheriff or constable commanding the
25 sheriff or constable to deliver possession to the complainant.

26 (2) The court may also give judgment in favor of the complainant for
27 damages due to the wrongful detainer and for court costs and attorney fees if:

28 (i) The complainant claimed damages in the complaint; and

29 (ii) The court finds that:

30 1. The person in actual possession was personally served
31 with the summons; or

1 2. There was service of process or submission to the
2 jurisdiction of the court as would support a judgment in contract or tort.

3 (3) A person in actual possession who is not personally served with a
4 summons is not subject to the personal jurisdiction of the District Court if the person
5 appears in response to the summons and prior to the time that evidence is taken by the
6 court and asserts that the appearance is only for the purpose of defending an in rem action.

7 **(G) A PARTY TO A WRONGFUL DETAINER ACTION BROUGHT IN THE**
8 **DISTRICT COURT UNDER THIS SECTION MAY ELECT A TRIAL BY JURY IN**
9 **ACCORDANCE WITH THE MARYLAND RULES.**

10 ~~[(g)]~~ **(H) (1) Not later than 10 days from the entry of [the] judgment [of the**
11 **District Court] IN AN ACTION UNDER THIS SECTION, either party may appeal to:**

12 **(I) IF JUDGMENT WAS ENTERED BY THE DISTRICT COURT, the**
13 **circuit court for the county in which the property is located; OR**

14 **(II) IF JUDGMENT WAS ENTERED BY THE CIRCUIT COURT, THE**
15 **COURT OF SPECIAL APPEALS.**

16 (2) The person in actual possession of the property may retain possession
17 until the determination of the appeal if the person:

18 (i) Files with the court an affidavit that the appeal is not taken for
19 delay; and

20 (ii) 1. Files sufficient bond with one or more securities
21 conditioned on diligent prosecution of the appeal; or

22 2. Pays to the complainant or into the appellate court:

23 A. The fair rental value of the property for the entire period
24 of possession up to the date of judgment;

25 B. All court costs in the case;

26 C. All losses or damages other than the fair rental value of
27 the property up to the day of judgment that the court determined to be due because of the
28 detention of possession; and

29 D. The fair rental value of the property during the pendency
30 of the appeal.

31 (3) On application of either party, the court shall set a hearing date for the
32 appeal that is not less than 5 days or more than 15 days after the application for appeal.

1 (4) Notice of the order for a hearing shall be served on the parties or the
2 parties' counsels not less than 5 days before the hearing.

3 **[(h)] (I)** If the judgment of the **[circuit] APPELLATE** court shall be in favor of
4 the person claiming possession, a warrant shall be issued by the court to the sheriff, who
5 shall proceed immediately to execute the warrant.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
7 apply only prospectively and may not be applied or interpreted to have any effect on or
8 application to any wrongful detainer action filed in the District Court before the effective
9 date of this Act.

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2017.