

# SENATE BILL 226

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By: **Senators Norman, Cassilly, Eckardt, and Waugh**

Introduced and read first time: January 19, 2018

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of authorizing a party to a certain wrongful detainer or distress action  
4 brought in the District Court to demand a trial by jury in accordance with certain  
5 provisions of law, subject to certain provisions of law; making certain provisions of  
6 law regarding jury demands applicable to wrongful detainer actions; and generally  
7 relating to wrongful detainer and distress actions.

8 BY repealing and reenacting, without amendments,

9 Article – Real Property

10 Section 8–118.1(a)

11 Annotated Code of Maryland

12 (2015 Replacement Volume and 2017 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article – Real Property

15 Section 8–302, 8–601, and 14–132

16 Annotated Code of Maryland

17 (2015 Replacement Volume and 2017 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

19 That the Laws of Maryland read as follows:

20 **Article – Real Property**

21 8–118.1.

22 (a) (1) In an action under § 14–132 of this article in which a party demands a  
23 jury trial, the District Court immediately shall enter an order directing the person or entity  
24 in possession to pay the monthly fair rental value of the premises that is subject to the  
25 action, or such other amount as the court may determine is proper, starting as of the date

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 the action was filed, as required in subsection (b) of this section.

2 (2) The order shall require the amount determined by the court to be paid  
3 within 5 days of the date of the order.

4 8–302.

5 (a) Distress for rent is an action at law and shall be brought as provided in this  
6 section.

7 (b) **[Jurisdiction] ORIGINAL JURISDICTION** in a case of distress for rent is  
8 vested exclusively in the District Court regardless of the amount of rent for which distress  
9 is brought, notwithstanding any limitation imposed by law on the civil monetary  
10 jurisdiction of such court.

11 (c) An action of distress may be brought only for unpaid rent under a written  
12 lease for a term of more than three months, or under a tenancy at will or a periodic tenancy  
13 that has continued more than three months.

14 (d) An action of distress shall be brought in the county where the leased premises  
15 lie.

16 **(E) A PARTY TO AN ACTION OF DISTRESS BROUGHT IN THE DISTRICT**  
17 **COURT UNDER THIS SECTION MAY DEMAND A TRIAL BY JURY IN ACCORDANCE WITH**  
18 **SUBTITLE 6 OF THIS ARTICLE.**

19 8–601.

20 Any party to an action brought in the District Court under this title **OR § 14–132**  
21 **OF THIS ARTICLE** in which the amount in controversy meets the requirements for a trial  
22 by jury may, in accordance with this subtitle, demand a trial by jury.

23 14–132.

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

26 (b) This section does not apply if:

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

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

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

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

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

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

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

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

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

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

20 (i) Give judgment for restitution of the possession of the property to  
21 the complainant; and

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

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

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

27 (ii) The court finds that:

28 1. The person in actual possession was personally served  
29 with the summons; or

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

32 (3) A person in actual possession who is not personally served with a

1 summons is not subject to the personal jurisdiction of the District Court if the person  
2 appears in response to the summons and prior to the time that evidence is taken by the  
3 court and asserts that the appearance is only for the purpose of defending an in rem action.

4 **(G) SUBJECT TO § 8–118.1 OF THIS ARTICLE, A PARTY TO A WRONGFUL**  
5 **DETAINDER ACTION BROUGHT IN THE DISTRICT COURT UNDER THIS SECTION MAY**  
6 **DEMAND A TRIAL BY JURY IN ACCORDANCE WITH TITLE 8, SUBTITLE 6 OF THIS**  
7 **ARTICLE.**

8 **[(g)] (H)** (1) Not later than 10 days from the entry of the judgment of the  
9 District Court, either party may appeal to the circuit court for the county in which the  
10 property is located.

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

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

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

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

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

20 B. All court costs in the case;

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

24 D. The fair rental value of the property during the pendency  
25 of the appeal.

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

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

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

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2018.