

SENATE BILL 831

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9lr0745
CF 9lr0415

By: **Senator Carter**

Introduced and read first time: February 4, 2019

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Landlord and Tenant – Repossession for Failure to Pay Rent – Procedure for**
3 **Lead-Affected Property**

4 FOR the purpose of altering the requirements for repossession of real property for the
5 failure of a tenant to pay rent to require that a landlord provide certain information
6 and documentation to the court and to the tenant at trial; requiring a court to dismiss
7 a complaint by a landlord for repossession of real property for the failure of a tenant
8 to pay rent under certain circumstances; prohibiting a tenant from challenging the
9 validity of certain documentation; requiring a rental property in Baltimore City to
10 be in compliance with certain lead-based paint abatement requirements before a
11 landlord may file a complaint for repossession of the property for failure to pay rent;
12 authorizing a court in Baltimore City to adjourn a certain trial to enable a party to
13 procure certain witnesses or obtain documents or other proof of claim or defense
14 under certain circumstances; making stylistic changes; providing for the application
15 of this Act; providing for a delayed effective date; and generally relating to the
16 repossession of real property for the failure of a tenant to pay rent.

17 BY repealing and reenacting, without amendments,
18 Article – Real Property
19 Section 8–401(a) and (b)
20 Annotated Code of Maryland
21 (2015 Replacement Volume and 2018 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Real Property
24 Section 8–401(c)
25 Annotated Code of Maryland
26 (2015 Replacement Volume and 2018 Supplement)

27 BY repealing and reenacting, with amendments,
28 The Public Local Laws of Baltimore City

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 9–2 and 9–5(a)
2 Article 4 – Public Local Laws of Maryland
3 (1979 Edition and 1997 Supplement and 2000 Supplement, as amended)

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

6 **Article – Real Property**

7 8–401.

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

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

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

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

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

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

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

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

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

1 B. On or after February 24, 2006, stating the inspection
2 certificate number for the inspection conducted for the current tenancy as required under
3 § 6–815(c), § 6–817(b), or § 6–819(f) of the Environment Article; or

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

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

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

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

15 (2) For the purpose of the court's determination under subsection (c) of this
16 section the landlord shall also specify the amount of rent due for each rental period under
17 the lease, the day that the rent is due for each rental period, and any late fees for overdue
18 rent payments.

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

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

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

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

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

31 2. If personal service is requested and none of the persons
32 whom the sheriff is directed to serve shall be found on the property and, in all cases where
33 personal service is not requested, the constable or sheriff shall affix an attested copy of the
34 summons conspicuously upon the property.

1 (ii) The affixing of the summons upon the property after due
2 notification to the tenant, assignee, or subtenant by first-class mail shall conclusively be
3 presumed to be a sufficient service to all persons to support the entry of a default judgment
4 for possession of the premises, together with court costs, in favor of the landlord, but it shall
5 not be sufficient service to support a default judgment in favor of the landlord for the
6 amount of rent due.

7 (5) Notwithstanding the provisions of paragraphs (1) through (4) of this
8 subsection:

9 (i) In an action to repossess nonresidential property under this
10 section, service of process on a tenant:

11 1. Shall be directed to the sheriff of the appropriate county
12 or municipality; and

13 2. On plaintiff's request, may be directed to any person
14 authorized under the Maryland Rules to serve process; and

15 (ii) In Wicomico County, in an action to repossess any premises
16 under this section, service of process on a tenant may be directed to any person authorized
17 under the Maryland Rules to serve process.

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

25 1. To appear before the District Court at the trial to be held
26 on the fifth 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) AT A TRIAL HELD UNDER SUBSECTION (B)(3) OF THIS SECTION,**
10 **THE LANDLORD SHALL PRODUCE FOR THE COURT AND THE TENANT:**

11 **(I) UNLESS THE LANDLORD IS EXCUSED FROM PROVIDING**
12 **INFORMATION UNDER SUBSECTION (B)(1)(VI)2 OF THIS SECTION, IF THE PROPERTY**
13 **TO BE REPOSSESSED IS AN AFFECTED PROPERTY AS DEFINED IN § 6–801 OF THE**
14 **ENVIRONMENT ARTICLE, A COPY OF:**

15 1. **A CURRENT CERTIFICATE OF LEAD–FREE OR LIMITED**
16 **LEAD–FREE HOUSING FOR THE PROPERTY, AS AUTHORIZED UNDER § 6–804 OF THE**
17 **ENVIRONMENT ARTICLE; OR**

18 2. **A CURRENT RISK REDUCTION INSPECTION**
19 **CERTIFICATE FOR THE PROPERTY, AS REQUIRED BY § 6–815(B), § 6–817(C), OR**
20 **§ 6–819(F) OF THE ENVIRONMENT ARTICLE; AND**

21 **(II) A COPY OF THE RENTAL REGISTRATION, PERMIT, OR**
22 **LICENSE IF A RENTAL REGISTRATION, PERMIT, OR LICENSE IS REQUIRED BY THE**
23 **JURISDICTION IN WHICH THE RENTAL PROPERTY IS LOCATED.**

24 **(2) THE COURT SHALL DISMISS A COMPLAINT IF THE LANDLORD IS**
25 **REQUIRED BUT UNABLE TO PRODUCE THE DOCUMENTATION REQUIRED UNDER**
26 **PARAGRAPH (1)(I) OF THIS SUBSECTION.**

27 **[(1)] (3)** If, at the trial [on the fifth day indicated in subsection (b) of this
28 section], the court is satisfied that the interests of justice will be better served by an
29 adjournment to enable either party to procure their necessary witnesses, the court may
30 adjourn the trial for a period not exceeding 1 day, except with the consent of all parties, the
31 trial may be adjourned for a longer period of time.

32 **[(2)] (4)** (i) The information required under subsection (b)(1)(vi) of
33 this section **AND THE VALIDITY OF DOCUMENTATION REQUIRED UNDER (C)(1) OF**
34 **THIS SECTION** may not be [an issue] **ISSUES** of fact in a trial under this section.

1 (ii) If, when the trial occurs, it appears to the satisfaction of the
2 court, that the rent, or any part of the rent and late fees are actually due and unpaid, the
3 court shall determine the amount of rent and late fees due as of the date the complaint was
4 filed less the amount of any utility bills, fees, or security deposits paid by a tenant under §
5 7–309 of the Public Utilities Article, if the trial occurs within the time specified by
6 subsection (b)(3) of this section.

7 (iii) 1. If the trial does not occur within the time specified in
8 subsection (b)(3)(i) of this section and the tenant has not become current since the filing of
9 the complaint, the court, if the complaint so requests, shall enter a judgment in favor of the
10 landlord for possession of the premises and determine the rent and late fees due as of the
11 trial date.

12 2. The determination of rent and late fees shall include the
13 following:

14 A. Rent claimed in the complaint;

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

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

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

21 (iv) In the case of a residential tenancy, the court may also give
22 judgment in favor of the landlord for the amount of rent and late fees determined to be due
23 together with costs of the suit if the court finds that the residential tenant was personally
24 served with a summons.

25 (v) In the case of a nonresidential tenancy, if the court finds that
26 there was such service of process or submission to the jurisdiction of the court as would
27 support a judgment in contract or tort, the court may also give judgment in favor of the
28 landlord for:

29 1. The amount of rent and late fees determined to be due;

30 2. Costs of the suit; and

31 3. Reasonable attorney's fees, if the lease agreement
32 authorizes the landlord to recover attorney's fees.

33 (vi) A nonresidential tenant who was not personally served with a
34 summons shall not be subject to personal jurisdiction of the court if that tenant asserts that

1 the appearance is for the purpose of defending an in rem action prior to the time that
2 evidence is taken by the court.

3 [(3)] (5) The court, when entering the judgment, shall also order that
4 possession of the premises be given to the landlord, or the landlord's agent or attorney,
5 within 4 days after the trial.

6 [(4)] (6) The court may, upon presentation of a certificate signed by a
7 physician certifying that surrender of the premises within this 4-day period would
8 endanger the health or life of the tenant or any other occupant of the premises, extend the
9 time for surrender of the premises as justice may require but not more than 15 days after
10 the trial.

11 [(5)] (7) However, if the tenant, or someone for the tenant, at the trial, or
12 adjournment of the trial, tenders to the landlord the rent and late fees determined by the
13 court to be due and unpaid, together with the costs of the suit, the complaint against the
14 tenant shall be entered as being satisfied.

15 Article 4 – Baltimore City

16 9–2.

17 Whenever the tenant under any demise or agreement of rental, express or implied,
18 verbal or written, of lands or tenements, whether real estate or chattels real within the
19 limits of the City of Baltimore, shall fail to pay the rent thereunder when due and payable,
20 it shall be lawful for the lessor to have again and repossess the premises so rented **SO LONG**
21 **AS THE PREMISES COMPLY WITH THE REGISTRATION, PERMIT, OR LICENSE**
22 **REQUIREMENTS SET FORTH IN ARTICLE 13 OF THE BALTIMORE CITY CODE AND**
23 **THE ENVIRONMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND.** The filing
24 of a complaint in summary ejectment under this subtitle, the trial of said cause and the
25 granting of a judgment of restitution shall not preclude the plaintiff or the owner of said
26 premises from filing and maintaining an independent suit for rent due and unpaid.

27 9–5.

28 (a) If, at the trial aforesaid, the judge shall be satisfied the interest of justice will
29 be better served by an adjournment, [he] **TO ENABLE A PARTY TO PROCURE NECESSARY**
30 **WITNESSES OR OBTAIN DOCUMENTS OR OTHER PROOF OF A CLAIM OR DEFENSE, OR**
31 **FOR OTHER PURPOSES OF THE JUDGE'S DISCRETION, THE JUDGE** may adjourn the
32 trial for a period not exceeding seven days, except by consent of the parties, and if at said
33 trial or due adjournment, as aforesaid, it shall appear to the satisfaction of the judge before
34 whom said complaint has been tried as aforesaid, that the rent or any part of the rent for
35 said premises is actually due and unpaid, then the said judge shall give judgment in favor
36 of said lessor for the amount of rent found due, with costs of suit, and shall order that said
37 tenant and all persons claiming or holding by or under said tenant shall yield and render
38 up possession of said premises unto said lessor, or unto [his] **THE LESSOR'S** duly qualified

1 agent or attorney within 4 days thereafter; provided, however, that upon presentation of
2 certificate signed by a practicing physician certifying that surrender of said premises
3 within said period of 4 days would endanger the health or life of any occupant thereof, said
4 judge may, at the trial or subsequent thereto, extend the time for such surrender of the
5 premises upon such terms and for such period or periods as [he] **THE JUDGE** shall deem
6 necessary and just. If the interval between the filing of the landlord's complaint and the
7 trial of the cause shall be more than three days, any order or judgment of said court with
8 respect to the payment of rent shall include all rent due and unpaid up to and including
9 the day of trial; and the proceedings amended to set forth the basis of said judgment or
10 order.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
12 apply only prospectively and may not be applied or interpreted to have any effect on or
13 application to any complaint by a landlord for repossession of real property for the failure
14 of a tenant to pay rent filed before the effective date of this Act.

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June
16 1, 2020.