
By: Delegates DeCarlo and Holt

Introduced and read first time: February 26, 1996

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Landlord and Tenant - Restitution**

3 FOR the purpose of altering a provision of law so as to provide that an administrative law
4 judge may only stay the execution of a warrant of restitution in the event of extreme
5 weather conditions if the property is residential property; requiring the court to
6 order a summons to be served on a tenant, assignee, or subtenant on the property to
7 be repossessed; providing certain procedures for serving a summons if the tenant,
8 assignee, or subtenant cannot be located; and generally relating to restitution of the
9 possession of leased premises by the landlord of the premises.

10 BY repealing and reenacting, with amendments,

11 Article - Real Property
12 Section 8-401(d) and 8-402.1(a)
13 Annotated Code of Maryland
14 (1996 Replacement Volume)

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

17 **Article - Real Property**

18 8-401.

19 (d) (1) Subject to the provisions of paragraph (2) of this subsection, if judgment
20 is given in favor of the landlord, and the tenant fails to comply with the requirements of
21 the order within two days, the Court shall, at any time after the expiration of the two days,
22 issue its warrant, directed to any official of the county entitled to serve process, ordering
23 him to cause the landlord to have again and repossess the property by putting him (or his
24 duly qualified agent or attorney for his benefit) in possession thereof, and for that
25 purpose to remove from the property, by force if necessary, all the furniture, implements,
26 tools, goods, effects or other chattels of every description whatsoever belonging to the
27 tenant, or to any person claiming or holding by or under said tenant. If the landlord does
28 not order a warrant of restitution within sixty days from the date of judgment or from the
29 expiration date of any stay of execution, whichever shall be the later, the judgment for
30 possession shall be stricken.

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1 (2) (i) The administrative judge of any district may stay the execution of a
2 warrant of restitution OF A RESIDENTIAL PROPERTY, from day to day, in the event of
3 extreme weather conditions.

4 (ii) When a stay has been granted under this paragraph, the execution
5 of the warrant of restitution for which the stay has been granted shall be given priority
6 when the extreme weather conditions cease.

7 8-402.1.

8 (a) (1) When a lease provides that the landlord may repossess the premises if
9 the tenant breaches the lease, and the landlord has given the tenant 1 month's written
10 notice that the tenant is in violation of the lease and the landlord desires to repossess the
11 premises, and if the tenant or person in actual possession refuses to comply, the landlord
12 may make complaint in writing to the District Court of the county where the premises is
13 located. [The court shall summons immediately the tenant or person in possession to
14 appear before the court on a day stated in the summons to show cause, if any, why
15 restitution of the possession of the leased premises should not be made to the landlord.]

16 (2) THE COURT SHALL ISSUE A SUMMONS DIRECTED TO ANY
17 CONSTABLE OR SHERIFF OF THE COUNTY ENTITLED TO SERVE PROCESS, ORDERING
18 THE CONSTABLE OR SHERIFF TO NOTIFY THE TENANT, ASSIGNEE, OR SUBTENANT
19 TO APPEAR ON A DAY STATED IN THE SUMMONS BEFORE THE COURT TO SHOW
20 CAUSE WHY RESTITUTION OF THE POSSESSION OF THE LEASED PREMISES SHOULD
21 NOT BE MADE TO THE LANDLORD. THE CONSTABLE OR SHERIFF SHALL SERVE THE
22 SUMMONS ON THE TENANT, ASSIGNEE, OR SUBTENANT ON THE PROPERTY, OR ON
23 THE KNOWN OR AUTHORIZED AGENT OF THE TENANT, ASSIGNEE, OR SUBTENANT.
24 IF, FOR ANY REASON THOSE PERSONS CANNOT BE FOUND, THE CONSTABLE OR
25 SHERIFF SHALL AFFIX AN ATTESTED COPY OF THE SUMMONS CONSPICUOUSLY ON
26 THE PROPERTY. AFTER NOTICE TO THE TENANT, ASSIGNEE, OR SUBTENANT BY
27 FIRST-CLASS MAIL, THE AFFIXING OF THE SUMMONS ON THE PROPERTY SHALL BE
28 CONCLUSIVELY PRESUMED TO BE A SUFFICIENT SERVICE TO SUPPORT
29 RESTITUTION.

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

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 1996.