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**By: Delegates DeCarlo and Holt**

Introduced and read first time: February 26, 1996  
Assigned to: Rules and Executive Nominations  
Re-referred to: Economic Matters, March 4, 1996

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 21, 1996

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CHAPTER \_\_\_\_

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 on a tenant if~~  
8 ~~the tenant, assignee, or subtenant or person in actual possession cannot be located;~~  
9 and generally relating to restitution of the possession of leased premises by the  
10 landlord of the premises.

11 BY repealing and reenacting, with amendments,  
12 Article - Real Property  
13 Section ~~8-401(d) and~~ 8-402.1(a)  
14 Annotated Code of Maryland  
15 (1996 Replacement Volume)

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

18 **Article - Real Property**

19 ~~8-401.~~

20 ~~(d) (1) Subject to the provisions of paragraph (2) of this subsection, if judgment~~  
21 ~~is given in favor of the landlord, and the tenant fails to comply with the requirements of~~  
22 ~~the order within two days, the Court shall, at any time after the expiration of the two days,~~  
23 ~~issue its warrant, directed to any official of the county entitled to serve process, ordering~~

1 him to cause the landlord to have again and repossess the property by putting him (or his  
2 duly qualified agent or attorney for his benefit) in possession thereof, and for that  
3 purpose to remove from the property, by force if necessary, all the furniture, implements,  
4 tools, goods, effects or other chattels of every description whatsoever belonging to the  
5 tenant, or to any person claiming or holding by or under said tenant. If the landlord does  
6 not order a warrant of restitution within sixty days from the date of judgment or from the  
7 expiration date of any stay of execution, whichever shall be the later, the judgment for  
8 possession shall be stricken.

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

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

15 8-402.1.

16           (a) (1) When a lease provides that the landlord may repossess the premises if  
17 the tenant breaches the lease, and the landlord has given the tenant 1 month's written  
18 notice that the tenant is in violation of the lease and the landlord desires to repossess the  
19 premises, and if the tenant or person in actual possession refuses to comply, the landlord  
20 may make complaint in writing to the District Court of the county where the premises is  
21 located. {The court shall summons immediately the tenant or person in possession to  
22 appear before the court on a day stated in the summons to show cause, if any, why  
23 restitution of the possession of the leased premises should not be made to the landlord.}

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

38                   (2) IF, FOR ANY REASON, THE TENANT OR PERSON IN ACTUAL  
39 POSSESSION CANNOT BE FOUND, THE CONSTABLE OR SHERIFF SHALL AFFIX AN  
40 ATTESTED COPY OF THE SUMMONS CONSPICUOUSLY ON THE PROPERTY, WHICH  
41 SHALL BE CONCLUSIVELY PRESUMED TO BE A SUFFICIENT SERVICE TO SUPPORT  
42 RESTITUTION.

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

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