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SB 660/95 - JPR

1996 Regular Session
6lr2160

By: ~~Senator Hughes~~ Senators Hughes and Ferguson

Introduced and read first time: February 2, 1996

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 19, 1996

CHAPTER ____

1 AN ACT concerning

2 **Landlord and Tenant - Surrender of Premises - Extension of Time**

3 FOR the purpose of extending a certain time period following a certain judgment within
4 which a tenant may be ordered to surrender possession of certain premises to the
5 landlord; extending a certain time period following a certain judgment in which a
6 party has a right to appeal the judgment; and generally relating to actions for the
7 surrender of premises under the landlord and tenant laws.

8 BY repealing and reenacting, with amendments,

9 Article - Real Property

10 Section 8-401

11 Annotated Code of Maryland

12 (1996 Replacement Volume)

13 BY repealing and reenacting, with amendments,

14 The Public Local Laws of Baltimore City

15 Section 9-5(a) and 9-7

16 Article 4 - Public Local Laws of Maryland

17 (1979 Edition and 1991 and 1993 Supplements, as amended)

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

19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Real Property**

21 8-401.

1 (a) Whenever the tenant under any lease of property, express or implied, verbal
2 or written, shall fail to pay the rent when due and payable, it shall be lawful for the
3 landlord to have again and repossess the premises so rented.

4 (b) (1) Whenever any landlord shall desire to repossess any premises to which
5 he is entitled under the provisions of subsection (a) of this section, he or his duly qualified
6 agent or attorney shall make his written complaint under oath or affirmation, before the
7 District Court of the county wherein the property is situated, describing in general terms
8 the property sought to be repossessed, and also setting forth the name of the tenant to
9 whom the property is rented or his assignee or subtenant with the amount of rent due and
10 unpaid; and praying by warrant to repossess the premises, together with judgment for the
11 amount of rent due and costs. The District Court shall issue its summons, directed to any
12 constable or sheriff of the county entitled to serve process, and ordering him to notify by
13 first-class mail the tenant, assignee, or subtenant to appear before the District Court at
14 the trial to be held on the fifth day after the filing of the complaint, to answer the
15 landlord's complaint to show cause why the prayer of the landlord should not be granted,
16 and the constable or sheriff shall proceed to serve the summons upon the tenant, assignee
17 or subtenant in the property or upon his known or authorized agent, but if for any reason,
18 neither the tenant, assignee or subtenant, nor his agent, can be found, then the constable
19 or sheriff shall affix an attested copy of the summons conspicuously upon the property.
20 The affixing of the summons upon the property after due notification to the tenant,
21 assignee, or subtenant by first-class mail shall conclusively be presumed to be a sufficient
22 service to all persons to support the entry of a default judgment for possession of the
23 premises, together with court costs, in favor of the landlord, but it shall not be sufficient
24 service to support a default judgment in favor of the landlord for the amount of rent due.

25 (2) Notwithstanding the provisions of paragraph (1) of this subsection, in
26 Wicomico County, in an action to repossess any premises under this section, service of
27 process on a tenant may be directed to any person authorized under the Maryland Rules
28 to serve process.

29 (c) (1) If, at the trial on the fifth day indicated in subsection (b) of this section,
30 the court is satisfied that the interests of justice will be better served by an adjournment
31 to enable either party to procure his necessary witnesses, he may adjourn the trial for a
32 period not exceeding one day, except that if the consent of all parties is obtained, the trial
33 may be adjourned for a longer period of time.

34 (2) If, when the trial occurs, it appears to the satisfaction of the court, that
35 the rent, or any part of the rent, is actually due and unpaid, the court shall determine the
36 amount of rent due and enter a judgment in favor of the landlord for possession of the
37 premises. The court may also give judgment in favor of the landlord for the amount of
38 rent determined to be due together with costs of the suit if the court finds that the actual
39 service of process made on the defendant would have been sufficient to support a
40 judgment in an action in contract or tort.

41 (3) The court, when entering the judgment, shall also order the tenant to
42 yield and render possession of the premises to the landlord, or his agent or attorney,
43 within [two] 5 days after the trial.

44 (4) The court may, upon presentation of a certificate signed by a physician
45 certifying that surrender of the premises within this [two-day] 5-DAY period would

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1 endanger the health or life of the tenant or any other occupant of the premises, extend
2 the time for surrender of the premises as justice may require. However, the court may not
3 extend the time for the surrender of the premises beyond 15 days after the trial.

4 (5) However, if the tenant, or someone for him, at the trial, or adjournment
5 of the trial, tenders to the landlord the rent determined by the court to be due and
6 unpaid, together with the costs of the suit, the complaint against the tenant shall be
7 entered as being satisfied.

8 (d) (1) Subject to the provisions of paragraph (2) of this subsection, if judgment
9 is given in favor of the landlord, and the tenant fails to comply with the requirements of
10 the order within [two] 5 days, the court shall, at any time after the expiration of the
11 [two] 5 days, issue its warrant, directed to any official of the county entitled to serve
12 process, ordering him to cause the landlord to have again and repossess the property by
13 putting him (or his duly qualified agent or attorney for his benefit) in possession thereof,
14 and for that purpose to remove from the property, by force if necessary, all the furniture,
15 implements, tools, goods, effects or other chattels of every description whatsoever
16 belonging to the tenant, or to any person claiming or holding by or under said tenant. If
17 the landlord does not order a warrant of restitution within sixty days from the date of
18 judgment or from the expiration date of any stay of execution, whichever shall be the
19 later, the judgment for possession shall be stricken.

20 (2) (i) The administrative judge of any district may stay the execution of a
21 warrant of restitution, from day to day, in the event of extreme weather conditions.

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

25 (e) In any action of summary ejection for failure to pay rent where the landlord
26 is awarded a judgment giving him restitution of the leased premises, the tenant shall have
27 the right to redemption of the leased premises by tendering in cash, certified check or
28 money order to the landlord or his agent all past due rent and late fees, plus all court
29 awarded costs and fees, at any time before actual execution of the eviction order. This
30 subsection does not apply to any tenant against whom 3 judgments of possession have
31 been entered for rent due and unpaid in the 12 months prior to the initiation of the action
32 to which this subsection otherwise would apply.

33 (f) The tenant or the landlord may appeal from the judgment of the District
34 Court to the circuit court for any county at any time within [two] 5 days from the
35 rendition of the judgment. The tenant, in order to stay any execution of the judgment,
36 shall give a bond to the landlord with one or more sureties, who are owners of sufficient
37 property in the State of Maryland, with condition to prosecute the appeal with effect, and
38 answer to the landlord in all costs and damages mentioned in the judgment, and such
39 other damages as shall be incurred and sustained by reason of the appeal. The bond shall
40 not affect in any manner the right of the landlord to proceed against the tenant, assignee
41 or subtenant for any and all rents that may become due and payable to the landlord after
42 the rendition of the judgment.

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1 **Article 4 - Baltimore City**

2 9-5.

3 (a) If, at the trial aforesaid, the judge shall be satisfied the interest of justice will
4 be better served by an adjournment, he may adjourn the trial for a period not exceeding
5 seven days, except by consent of the parties, and if at said trial or due adjournment, as
6 aforesaid, it shall appear to the satisfaction of the judge before whomsaid complaint has
7 been tried as aforesaid, that the rent or any part of the rent for saidpremises is actually
8 due and unpaid, then the said judge shall give judgment in favor of said lessor for the
9 amount of rent found due, with costs of suit, and shall order that saidtenant and all
10 persons claiming or holding by or under said tenant shall yield and render up possession
11 of said premises unto said lessor, or unto his duly qualified agent or attorney within
12 [two] 5 days thereafter; provided, however, that upon presentation of certificate signed
13 by a practicing physician certifying that surrender of said premises within said period of
14 [two] 5 days would endanger the health or life of any occupant thereof,said judge may,
15 at the trial or subsequent thereto, extend the time for such surrender of the premises
16 upon such terms and for such period or periods as he shall deem necessary and just. If the
17 interval between the filing of the landlord's complaint and the trial of the cause shall be
18 more than three days, any order or judgment of said court with respect to the payment of
19 rent shall include all rent due and unpaid up to and including the day of trial; and the
20 proceedings amended to set forth the basis of said judgment or order.

21 9-7.

22 Any party aggrieved may appeal from the judgment of the District Court to the
23 Circuit Court for Baltimore City, at any time within [two] 5 days from the rendition of
24 such judgment; the tenant in order to stay any execution of the judgment, shall give a
25 bond to the landlord with one or more securities, who are owners of sufficient leasehold
26 or real estate in Baltimore City, or the tenant shall provide such security in the form of
27 either a corporate or cash bond, with condition to prosecute the appealwith effect, and
28 answer to the landlord, or the landlord's personal representative, in all costs and damages
29 mentioned in the judgment and such other damages as shall be incurred and sustained by
30 reason of said appeal; the aforesaid bond shall not affect in any manner the right of the
31 lessor to proceed against said tenant, assignee or under tenant for anyand all rents that
32 may become due and payable to the lessor after the rendition of said judgment.

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