
By: **Delegate DeCarlo**

Introduced and read first time: February 9, 1998

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Landlord and Tenant - Eviction - Extreme Weather Conditions**

3 FOR the purpose of defining "extreme weather conditions" in a provision of law
4 relating to eviction of tenants; and generally relating to a stay of execution of a
5 warrant of restitution of residential property.

6 BY repealing and reenacting, with amendments,
7 Article - Real Property
8 Section 8-401
9 Annotated Code of Maryland
10 (1996 Replacement Volume and 1997 Supplement)

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

13 **Article - Real Property**

14 8-401.

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

18 (b) (1) Whenever any landlord shall desire to repossess any premises to
19 which he is entitled under the provisions of subsection (a) of this section, he or his
20 duly qualified agent or attorney shall make his written complaint under oath or
21 affirmation, before the District Court of the county wherein the property is situated,
22 describing in general terms the property sought to be repossessed, and also setting
23 forth the name of the tenant to whom the property is rented or his assignee or
24 subtenant with the amount of rent due and unpaid; and praying by warrant to
25 repossess the premises, together with judgment for the amount of rent due and costs.
26 The District Court shall issue its summons, directed to any constable or sheriff of the
27 county entitled to serve process, and ordering him to notify by first-class mail the
28 tenant, assignee, or subtenant to appear before the District Court at the trial to be
29 held on the fifth day after the filing of the complaint, to answer the landlord's

1 complaint to show cause why the prayer of the landlord should not be granted, and
2 the constable or sheriff shall proceed to serve the summons upon the tenant, assignee
3 or subtenant in the property or upon his known or authorized agent, but if for any
4 reason, neither the tenant, assignee or subtenant, nor his agent, can be found, then
5 the constable or sheriff shall affix an attested copy of the summons conspicuously
6 upon the property. The affixing of the summons upon the property after due
7 notification to the tenant, assignee, or subtenant by first-class mail shall
8 conclusively be presumed to be a sufficient service to all persons to support the entry
9 of a default judgment for possession of the premises, together with court costs, in
10 favor of the landlord, but it shall not be sufficient service to support a default
11 judgment in favor of the landlord for the amount of rent due.

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

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

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

28 (3) The court, when entering the judgment, shall also order the tenant to
29 yield and render possession of the premises to the landlord, or his agent or attorney,
30 within 4 days after the trial.

31 (4) The court may, upon presentation of a certificate signed by a
32 physician certifying that surrender of the premises within this 4-day period would
33 endanger the health or life of the tenant or any other occupant of the premises, extend
34 the time for surrender of the premises as justice may require. However, the court may
35 not extend the time for the surrender of the premises beyond 15 days after the trial.

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

40 (d) (1) Subject to the provisions of paragraph (2) of this subsection, if
41 judgment is given in favor of the landlord, and the tenant fails to comply with the
42 requirements of the order within 4 days, the court shall, at any time after the

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

10 (2) (I) IN THIS PARAGRAPH, "EXTREME WEATHER CONDITIONS"
 11 MEANS:

12 1. PRECIPITATION IN SUFFICIENT QUANTITY TO
 13 SUBSTANTIALLY DAMAGE EXPOSED PERSONAL PROPERTY; OR

14 2. DAYTIME HIGH TEMPERATURES BELOW FREEZING.

15 [(i)] (II) The administrative judge of any district may stay the
 16 execution of a warrant of restitution of a residential property, from day to day, in the
 17 event of extreme weather conditions.

18 [(ii)] (III) When a stay has been granted under this paragraph, the
 19 execution of the warrant of restitution for which the stay has been granted shall be
 20 given priority when the extreme weather conditions cease.

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

29 (f) The tenant or the landlord may appeal from the judgment of the District
 30 Court to the circuit court for any county at any time within 4 days from the rendition
 31 of the judgment. The tenant, in order to stay any execution of the judgment, shall give
 32 a bond to the landlord with one or more sureties, who are owners of sufficient
 33 property in the State of Maryland, with condition to prosecute the appeal with effect,
 34 and answer to the landlord in all costs and damages mentioned in the judgment, and
 35 such other damages as shall be incurred and sustained by reason of the appeal. The
 36 bond shall not affect in any manner the right of the landlord to proceed against the
 37 tenant, assignee or subtenant for any and all rents that may become due and payable
 38 to the landlord after the rendition of the judgment.

39 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 40 October 1, 1998.