

SENATE BILL 621

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HB 1158/97 - ECM

1998 Regular Session
8r1633

By: **Senator Haines**

Introduced and read first time: February 6, 1998

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Landlord and Tenant - Accrual of Unpaid Rent and Late Fees**

3 FOR the purpose of requiring a landlord who seeks certain rents due and late fees in
4 actions to repossess premises from certain tenants to specify a certain amount of
5 rent and fees in a certain complaint and in a certain manner; requiring a certain
6 court to award certain late fees and certain rents due to certain landlords under
7 certain circumstances; requiring the court to make certain determinations;
8 altering certain criteria for determination of a tenant's right to redemption of
9 leased premises; altering certain rents and late fees that the tenant must pay to
10 redeem the leased property; making certain stylistic changes; and generally
11 relating to repossession of leased premises for failure to pay rent.

12 BY repealing and reenacting, with amendments,
13 Article - Real Property
14 Section 8-401
15 Annotated Code of Maryland
16 (1996 Replacement Volume and 1997 Supplement)

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

19 **Article - Real Property**

20 8-401.

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

24 (b) (1) Whenever any landlord shall desire to repossess any premises to
25 which [he] THE LANDLORD is entitled under the provisions of subsection (a) of this
26 section, [he] THE LANDLORD or [his] THE LANDLORD'S duly qualified agent or
27 attorney shall make [his] THE LANDLORD'S written complaint under oath or
28 affirmation, before the District Court of the county wherein the property is situated,
29 describing in general terms the property sought to be repossessed, and also setting

1 forth the name of the tenant to whom the property is rented or [his] THE TENANT'S
2 assignee or subtenant with the amount of rent AND ANY LATE FEES due and unpaid;
3 and praying by warrant to repossess the premises, together with judgment for the
4 amount of rent [and costs], COSTS, AND ANY LATE FEES. FOR THE PURPOSE OF THE
5 COURT'S DETERMINATION UNDER SUBSECTION (C) OF THIS SECTION, THE
6 LANDLORD SHALL ALSO SPECIFY THE AMOUNT OF RENT DUE FOR EACH RENTAL
7 PERIOD UNDER THE LEASE, THE DAY THAT THE RENT IS DUE FOR EACH RENTAL
8 PERIOD, AND ANY LATE FEES FOR OVERDUE RENT PAYMENTS. The District Court
9 shall issue its summons, directed to any constable or sheriff of the county entitled to
10 serve process, and ordering [him] THE CONSTABLE OR SHERIFF to notify by
11 first-class mail the tenant, assignee, or subtenant to appear before the District Court
12 at the trial to be held on the fifth day after the filing of the complaint, to answer the
13 landlord's complaint to show cause why the prayer of the landlord should not be
14 granted, and the constable or sheriff shall proceed to serve the summons upon the
15 tenant, assignee or subtenant in the property or upon [his] THE TENANT'S,
16 ASSIGNEE'S, OR SUBTENANT'S known or authorized agent, but if for any reason,
17 neither the tenant, assignee or subtenant, nor [his] THE TENANT'S, ASSIGNEE'S, OR
18 SUBTENANT'S agent, can be found, then the constable or sheriff shall affix an attested
19 copy of the summons conspicuously upon the property. The affixing of the summons
20 upon the property after due notification to the tenant, assignee, or subtenant by
21 first-class mail shall conclusively be presumed to be a sufficient service to all persons
22 to support the entry of a default judgment for possession of the premises, together
23 with court costs, in favor of the landlord, but it shall not be sufficient service to
24 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
28 Rules to serve process.

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

35 (2) (I) If, when the trial occurs, it appears to the satisfaction of the
36 court, that the rent, or any part of the rent, [is] AND LATE FEES ARE actually due and
37 unpaid, the court shall [determine]:

38 1. DETERMINE the amount of rent AND LATE FEES due AS OF
39 THE DATE OF THE JUDGMENT, INCLUDING RENT AND LATE FEES ACCRUING AFTER
40 THE FILING OF THE COMPLAINT; AND

41 2. [enter] ENTER a judgment in favor of the landlord for
42 possession of the premises.

1 (II) The court may also give judgment in favor of the landlord for
2 the amount of rent determined to be due together with costs of the suit if the court
3 finds that the actual service of process made on the defendant would have been
4 sufficient to support a judgment in an action in contract or tort.

5 (3) The court, when entering the judgment, shall also order the tenant to
6 yield and render possession of the premises to the landlord, or [his] THE
7 LANDLORD'S agent or attorney, within 4 days after the trial.

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

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

17 (d) (1) Subject to the provisions of paragraph (2) of this subsection, if
18 judgment is given in favor of the landlord, and the tenant fails to comply with the
19 requirements of the order within 4 days, the court shall, at any time after the
20 expiration of the 4 days, issue its warrant, directed to any official of the county
21 entitled to serve process, ordering [him] THE OFFICIAL to cause the landlord to have
22 again and repossess the property by putting [him] THE LANDLORD (or [his] THE
23 LANDLORD'S duly qualified agent or attorney for [his] THE LANDLORD'S benefit) in
24 possession thereof, and for that purpose to remove from the property, by force if
25 necessary, all the furniture, implements, tools, goods, effects or other chattels of every
26 description whatsoever belonging to the tenant, or to any person claiming or holding
27 by or under said tenant. If the landlord does not order a warrant of restitution within
28 sixty days from the date of judgment or from the expiration date of any stay of
29 execution, whichever shall be the later, the judgment for possession shall be stricken.

30 (2) (i) The administrative judge of any district may stay the execution
31 of a warrant of restitution of a residential property, from day to day, in the event of
32 extreme weather conditions.

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

36 (e) In any action of summary ejectment for failure to pay rent where the
37 landlord is awarded a judgment giving him restitution of the leased premises, the
38 tenant shall have the right to redemption of the leased premises by tendering in cash,
39 certified check or money order to the landlord or his agent all past due rent and late
40 fees, AS DETERMINED BY THE COURT UNDER SUBSECTION (C) OF THIS SECTION, plus
41 all court awarded costs and fees, at any time before actual execution of the eviction
42 order. This subsection does not apply to any tenant against whom 3 judgments of

1 possession have been entered for rent due and unpaid in the 12 months prior to the
2 initiation of the action to which this subsection otherwise would apply.

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

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