

SENATE BILL 621

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HB 1158/97 - ECM

1998 Regular Session  
8r1633

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By: **Senator Haines**

Introduced and read first time: February 6, 1998  
Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 20, 1998

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CHAPTER \_\_\_\_\_

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 prohibiting a court from entering a judgment for possession of the premises  
9 based solely on unpaid late fees accruing after the filing of the complaint;  
10 altering certain criteria for determination of a tenant's right to redemption of  
11 leased premises; altering certain rents and late fees that the tenant must pay to  
12 redeem the leased property; making certain stylistic changes; and generally  
13 relating to repossession of leased premises for failure to pay rent.

14 BY repealing and reenacting, with amendments,  
15 Article - Real Property  
16 Section 8-401  
17 Annotated Code of Maryland  
18 (1996 Replacement Volume and 1997 Supplement)

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

1

**Article - Real Property**

2 8-401.

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

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

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

40 (c) (1) If, at the trial on the fifth day indicated in subsection (b) of this  
41 section, the court is satisfied that the interests of justice will be better served by an  
42 adjournment to enable either party to procure [his] necessary witnesses, [he] THE  
43 COURT may adjourn the trial for a period not exceeding one day, except that if the

1 consent of all parties is obtained, the trial may be adjourned for a longer period of  
2 time.

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

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

9 2. [enter] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF  
10 THIS PARAGRAPH, ENTER a judgment in favor of the landlord for possession of the  
11 premises.

12 (II) THE COURT MAY NOT ENTER A JUDGMENT FOR POSSESSION OF  
13 THE PREMISES BASED SOLELY ON UNPAID LATE FEES ACCRUING AFTER THE FILING  
14 OF THE COMPLAINT.

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

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

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

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

31 (d) (1) Subject to the provisions of paragraph (2) of this subsection, if  
32 judgment is given in favor of the landlord, and the tenant fails to comply with the  
33 requirements of the order within 4 days, the court shall, at any time after the  
34 expiration of the 4 days, issue its warrant, directed to any official of the county  
35 entitled to serve process, ordering [him] THE OFFICIAL to cause the landlord to have  
36 again and repossess the property by putting [him] THE LANDLORD (or [his] THE  
37 LANDLORD'S duly qualified agent or attorney for [his] THE LANDLORD'S benefit) in  
38 possession thereof, and for that purpose to remove from the property, by force if  
39 necessary, all the furniture, implements, tools, goods, effects or other chattels of every  
40 description whatsoever belonging to the tenant, or to any person claiming or holding  
41 by or under said tenant. If the landlord does not order a warrant of restitution within

1 sixty days from the date of judgment or from the expiration date of any stay of  
2 execution, whichever shall be the later, the judgment for possession shall be stricken.

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

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

9     (e)       In any action of summary ejection for failure to pay rent where the  
10 landlord is awarded a judgment giving him restitution of the leased premises, the  
11 tenant shall have the right to redemption of the leased premises by tendering in cash,  
12 certified check or money order to the landlord or his agent all past due rent and late  
13 fees, AS DETERMINED BY THE COURT UNDER SUBSECTION (C) OF THIS SECTION, plus  
14 all court awarded costs and fees, at any time before actual execution of the eviction  
15 order. This subsection does not apply to any tenant against whom 3 judgments of  
16 possession have been entered for rent due and unpaid in the 12 months prior to the  
17 initiation of the action to which this subsection otherwise would apply.

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

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