
By: **Delegate Cole**

Introduced and read first time: February 19, 2001

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property - Landlord and Tenant - Service of Process**

3 FOR the purpose of authorizing a constable or sheriff who is serving a summons in
4 certain landlord and tenant actions to effect service by affixing an attested copy
5 of the summons conspicuously on the common area entrance of a multiple unit
6 property under certain circumstances; making a stylistic change; and generally
7 relating to the service of process in certain landlord and tenant actions.

8 BY repealing and reenacting, with amendments,
9 The Public Local Laws of Baltimore City
10 Section 9-3
11 Article 4 - Public Local Laws of Maryland
12 (1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)

13 BY repealing and reenacting, without amendments,
14 Article - Real Property
15 Section 8-401(a) and 8-402(a)
16 Annotated Code of Maryland
17 (1996 Replacement Volume and 2000 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article - Real Property
20 Section 8-401(b), 8-402(b)(1), and 8-402.1(a)
21 Annotated Code of Maryland
22 (1996 Replacement Volume and 2000 Supplement)

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

1

Article 4 - Baltimore City

2 9-3.

3 Whenever any lessor shall desire to have again and repossess any premises to
4 which he is entitled under the provisions of the preceding section, he or his duly
5 qualified agent or attorney, shall make his written complaint under oath or
6 affirmation, in the District Court in Baltimore City, and describing therein in general
7 terms the property sought to be had again and repossessed as aforesaid, and also
8 setting forth the name of the tenant to whom the same is rented, or his assignee or
9 under tenant or tenants, with the amount of rent thereon due and unpaid; and
10 praying by warrant to have again and repossess the premises, together with
11 judgment for the amount of rent due and costs; and it shall thereupon be the duty of
12 said District Court in Baltimore City forthwith to issue summons directed to a
13 Constable of said court, ordering him to notify said tenant, assignee or under tenant
14 forthwith to appear before the said District Court at trial to be held on the fifth day
15 after the filing of said complaint, except as hereinafter provided, to show cause why
16 the prayer of said lessor should not be granted as aforesaid, and the said Constable
17 shall forthwith proceed to serve said summons on or before the third day after the
18 filing of said complaint, upon said tenant, assignee or under tenant in said premises,
19 or upon his or their known or authorized agent, or IF THE PROPERTY IS A SINGLE
20 UNIT PROPERTY, said Constable shall affix an attested copy of said summons
21 conspicuously upon said premises, OR IF THE PROPERTY IS A MULTIPLE UNIT
22 PROPERTY, SAID CONSTABLE SHALL AFFIX AN ATTESTED COPY OF SAID SUMMONS
23 CONSPICUOUSLY UPON SAID PREMISES OR UPON THE COMMON AREA ENTRANCE OF
24 SAID PREMISES, and such affixing of said summons shall, for the purposes of this
25 subheading of this article, be deemed and construed a sufficient service upon all
26 persons whomsoever.

27

Article - Real Property

28 8-401.

29 (a) Whenever the tenant or tenants fail to pay the rent when due and payable,
30 it shall be lawful for the landlord to have again and repossess the premises.

31 (b) (1) Whenever any landlord shall desire to repossess any premises to
32 which the landlord is entitled under the provisions of subsection (a) of this section, the
33 landlord or the landlord's duly qualified agent or attorney shall file the landlord's
34 written complaint under oath or affirmation, in the District Court of the county
35 wherein the property is situated:

36 (i) Describing in general terms the property sought to be
37 repossessed;

38 (ii) Setting forth the name of each tenant to whom the property is
39 rented or any assignee or subtenant;

1 (iii) Stating the amount of rent and any late fees due and unpaid;
2 and

3 (iv) Requesting to repossess the premises and, if requested by the
4 landlord, a judgment for the amount of rent due, costs, and any late fees.

5 (2) For the purpose of the court's determination under subsection (c) of
6 this section the 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 period, and any
8 late fees for overdue rent payments.

9 (3) The District Court shall issue its summons, directed to any constable
10 or sheriff of the county entitled to serve process, and ordering the constable or sheriff
11 to notify the tenant, assignee, or subtenant by first-class mail:

12 (i) To appear before the District Court at the trial to be held on the
13 fifth day after the filing of the complaint; and

14 (ii) To answer the landlord's complaint to show cause why the
15 demand of the landlord should not be granted.

16 (4) (i) The constable or sheriff shall proceed to serve the summons
17 upon the tenant, assignee or subtenant or their known or authorized agent as follows:

18 1. If personal service is requested and any of the persons
19 whom the sheriff shall serve is found on the property, the sheriff shall serve any such
20 persons; OR

21 2. If personal service is requested and none of the persons
22 whom the sheriff is directed to serve shall be found on the property and, in all cases
23 where personal service is not requested[.]:

24 A. IF THE PROPERTY IS A SINGLE UNIT PROPERTY, the
25 constable or sheriff shall affix an attested copy of the summons conspicuously [upon]
26 ON the property; OR

27 B. IF THE PROPERTY IS A MULTIPLE UNIT PROPERTY, THE
28 CONSTABLE OR SHERIFF SHALL AFFIX AN ATTESTED COPY OF THE SUMMONS
29 CONSPICUOUSLY ON THE PROPERTY OR ON THE COMMON AREA ENTRANCE OF THE
30 PROPERTY.

31 (ii) The affixing of the summons upon the property, AS PROVIDED
32 FOR IN THIS PARAGRAPH, after due notification to the tenant, assignee, or subtenant
33 by first-class mail shall conclusively be presumed to be a sufficient service to all
34 persons to support the entry of a default judgment for possession of the premises,
35 together with court costs, in favor of the landlord, but it shall not be sufficient service
36 to support a default judgment in favor of the landlord for the amount of rent due.

37 (5) Notwithstanding the provisions of paragraphs (1) through (4) of this
38 subsection, in Wicomico County, in an action to repossess any premises under this

1 section, service of process on a tenant may be directed to any person authorized under
2 the Maryland Rules to serve process.

3 8-402.

4 (a) (1) A tenant under any lease or someone holding under the tenant, who
5 shall unlawfully hold over beyond the termination of the lease, shall be liable to the
6 landlord for the actual damages caused by the holding over.

7 (2) The damages awarded to a landlord against the tenant or someone
8 holding under the tenant, may not be less than the apportioned rent for the period of
9 holdover at the rate under the lease.

10 (3) (i) Any action to recover damages under this section may be
11 brought by suit separate from the eviction or removal proceeding or in the same
12 action and in any court having jurisdiction over the amount in issue.

13 (ii) The court may also give judgment in favor of the landlord for
14 the damages determined to be due together with costs of the suit if the court finds
15 that the residential tenant was personally served with a summons, or, in the case of a
16 nonresidential tenancy, there was such service of process or submission to the
17 jurisdiction of the court as would support a judgment in contract or tort.

18 (iii) A nonresidential tenant who was not personally served with a
19 summons shall not be subject to personal jurisdiction of the court if that tenant
20 asserts that the appearance is for the purpose of defending an in rem action prior to
21 the time that evidence is taken by the court.

22 (4) Nothing contained herein is intended to limit any other remedies
23 which a landlord may have against a holdover tenant under the lease or under
24 applicable law.

25 (b) (1) (i) Where any interest in property shall be leased for any definite
26 term or at will, and the landlord shall desire to repossess the property after the
27 expiration of the term for which it was leased and shall give notice in writing one
28 month before the expiration of the term or determination of the will to the tenant or
29 to the person actually in possession of the property to remove from the property at the
30 end of the term, and if the tenant or person in actual possession shall refuse to
31 comply, the landlord may make complaint in writing to the District Court of the
32 county where the property is located.

33 (ii) 1. The court shall issue a summons directed to any constable
34 or sheriff of the county entitled to serve process, ordering the constable or sheriff to
35 notify the tenant, assignee, or subtenant to appear on a day stated in the summons
36 before the court to show cause why restitution should not be made to the landlord.

37 2. The constable or sheriff shall serve the summons on the
38 tenant, assignee, or subtenant on the property, or on the known or authorized agent of
39 the tenant, assignee, or subtenant.

1 3. If, for any reason those persons cannot be found[,]:

2 A. IF THE PROPERTY IS A SINGLE UNIT PROPERTY, the
3 constable or sheriff shall affix an attested copy of the summons conspicuously on the
4 property; OR

5 B. IF THE PROPERTY IS A MULTIPLE UNIT PROPERTY, THE
6 CONSTABLE OR SHERIFF SHALL AFFIX AN ATTESTED COPY OF THE SUMMONS
7 CONSPICUOUSLY ON THE PROPERTY OR ON THE COMMON AREA ENTRANCE OF THE
8 PROPERTY.

9 4. After notice to the tenant, assignee, or subtenant by
10 first-class mail, the affixing of the summons on the property, AS PROVIDED FOR IN
11 THIS PARAGRAPH, shall be conclusively presumed to be a sufficient service to support
12 restitution.

13 (iii) Upon the failure of either of the parties to appear before the
14 court on the day stated in the summons, the court may continue the case to a day not
15 less than six nor more than ten days after the day first stated and notify the parties
16 of the continuance.

17 8-402.1.

18 (a) (1) (i) When a lease provides that the landlord may repossess the
19 premises if the tenant breaches the lease, and the landlord has given the tenant 1
20 month's written notice that the tenant is in violation of the lease and the landlord
21 desires to repossess the premises, and if the tenant or person in actual possession
22 refuses to comply, the landlord may make complaint in writing to the District Court of
23 the county where the premises is located.

24 (ii) The court shall summons immediately the tenant or person in
25 possession to appear before the court on a day stated in the summons to show cause,
26 if any, why restitution of the possession of the leased premises should not be made to
27 the landlord.

28 (2) (i) If, for any reason, the tenant or person in actual possession
29 cannot be found[,]:

30 1. IF THE PROPERTY IS A SINGLE UNIT PROPERTY, the
31 constable or sheriff shall affix an attested copy of the summons conspicuously on the
32 property; OR

33 2. IF THE PROPERTY IS A MULTIPLE UNIT PROPERTY, THE
34 CONSTABLE OR SHERIFF SHALL AFFIX AN ATTESTED COPY OF THE SUMMONS
35 CONSPICUOUSLY ON THE PROPERTY OR ON THE COMMON AREA ENTRANCE OF THE
36 PROPERTY.

37 (ii) After notice is sent to the tenant or person in possession by
38 first-class mail, the affixing of the summons on the property, AS PROVIDED FOR IN

1 THIS PARAGRAPH, shall be conclusively presumed to be a sufficient service to support
2 restitution.

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

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2001.