
By: **Delegate Arnick**

Introduced and read first time: February 23, 2006

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Landlord and Tenant - Failure to Pay Rent - Judgment for Possession of**
3 **Premises**

4 FOR the purpose of providing that under certain circumstances, if a judgment for
5 possession of leased premises is stricken, the judgment shall be counted in the
6 number of judgments necessary to foreclose a certain right of redemption;
7 providing that under certain circumstances, if a warrant of restitution expires
8 and the judgment for possession is stricken, the judgment shall be counted in
9 the number of judgments necessary to foreclose a certain right of redemption;
10 and generally relating to a judgment for possession of leased premises for failure
11 to pay rent.

12 BY repealing and reenacting, with amendments,
13 Article - Real Property
14 Section 8-401
15 Annotated Code of Maryland
16 (2003 Replacement Volume and 2005 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 or tenants fail to pay the rent when due and payable,
22 it shall be lawful for the landlord to have again and repossess the premises.

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

1 (i) Describing in general terms the property sought to be
2 repossessed;

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

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

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

8 (v) If the property to be repossessed is an affected property as
9 defined in § 6-801 of the Environment Article, stating that the landlord has
10 registered the affected property as required under § 6-811 of the Environment Article
11 and renewed the registration as required under § 6-812 of the Environment Article
12 and:

13 1. A. If the current tenant moved into the property on or
14 after February 24, 1996, stating the inspection certificate number for the inspection
15 conducted for the current tenancy as required under § 6-815(c) of the Environment
16 Article; or

17 B. On or after February 24, 2006, stating the inspection
18 certificate number for the inspection conducted for the current tenancy as required
19 under § 6-815(c), § 6-817(b), or § 6-819(e) of the Environment Article; or

20 2. Stating that the owner is unable to provide an inspection
21 certificate number because:

22 A. The owner has requested that the tenant allow the owner
23 access to the property to perform the work required under Title 6, Subtitle 8 of the
24 Environment Article;

25 B. The owner has offered to relocate the tenant in order to
26 allow the owner to perform work if the work will disturb the paint on the interior
27 surfaces of the property and to pay the reasonable expenses the tenant would incur
28 directly related to the relocation; and

29 C. The tenant has refused to allow access to the owner or
30 refused to vacate the property in order for the owner to perform the required work.

31 (2) For the purpose of the court's determination under subsection (c) of
32 this section the landlord shall also specify the amount of rent due for each rental
33 period under the lease, the day that the rent is due for each rental period, and any
34 late fees for overdue rent payments.

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

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

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

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

8 1. If personal service is requested and any of the persons
9 whom the sheriff shall serve is found on the property, the sheriff shall serve any such
10 persons; or

11 2. If personal service is requested and none of the persons
12 whom the sheriff is directed to serve shall be found on the property and, in all cases
13 where personal service is not requested, the constable or sheriff shall affix an attested
14 copy of the summons conspicuously upon the property.

15 (ii) The affixing of the summons upon the property after due
16 notification to the tenant, assignee, or subtenant by first-class mail shall conclusively
17 be presumed to be a sufficient service to all persons to support the entry of a default
18 judgment for possession of the premises, together with court costs, in favor of the
19 landlord, but it shall not be sufficient service to support a default judgment in favor of
20 the landlord for the amount of rent due.

21 (5) Notwithstanding the provisions of paragraphs (1) through (4) of this
22 subsection, in Wicomico County, in an action to repossess any premises under this
23 section, service of process on a tenant may be directed to any person authorized under
24 the Maryland Rules to serve process.

25 (c) (1) If, at the trial on the fifth day indicated in subsection (b) of this
26 section, the court is satisfied that the interests of justice will be better served by an
27 adjournment to enable either party to procure their necessary witnesses, the court
28 may adjourn the trial for a period not exceeding 1 day, except with the consent of all
29 parties, the trial may be adjourned for a longer period of time.

30 (2) (i) The information required under subsection (b)(1)(v) of this
31 section may not be an issue of fact in a trial under this section.

32 (ii) If, when the trial occurs, it appears to the satisfaction of the
33 court, that the rent, or any part of the rent and late fees are actually due and unpaid,
34 the court shall determine the amount of rent and late fees due as of the date the
35 complaint was filed, if the trial occurs within the time specified by subsection (b)(3) of
36 this section.

37 (iii) 1. If the trial does not occur within the time specified in
38 subsection (b)(3)(i) of this section and the tenant has not become current since the
39 filing of the complaint, the court, if the complaint so requests, shall enter a judgment

1 in favor of the landlord for possession of the premises and determine the rent and late
2 fees due as of the trial date.

3 2. The determination of rent and late fees shall include the
4 following:

5 A. Rent claimed in the complaint;

6 B. Rent accruing after the date of the filing of the complaint;

7 C. Late fees accruing in or prior to the month in which the
8 complaint was filed; and

9 D. Credit for payments of rent and late fees made by the
10 tenant after the complaint was filed.

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

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

21 (3) The court, when entering the judgment, shall also order that
22 possession of the premises be given to the landlord, or the landlord's agent or
23 attorney, within 4 days after the trial.

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

29 (5) However, if the tenant, or someone for the tenant, at the trial, or
30 adjournment of the trial, tenders to the landlord the rent and late fees determined by
31 the court to be due and unpaid, together with the costs of the suit, the complaint
32 against the tenant shall be entered as being satisfied.

33 (d) (1) (i) Subject to the provisions of paragraph (2) of this subsection, if
34 judgment is given in favor of the landlord, and the tenant fails to comply with the
35 requirements of the order within 4 days, the court shall, at any time after the
36 expiration of the 4 days, issue its warrant, directed to any official of the county
37 entitled to serve process, ordering the official to cause the landlord to have again and
38 repossess the property by putting the landlord (or the landlord's duly qualified agent
39 or attorney for the landlord's benefit) in possession thereof, and for that purpose to

1 remove from the property, by force if necessary, all the furniture, implements, tools,
2 goods, effects or other chattels of every description whatsoever belonging to the
3 tenant, or to any person claiming or holding by or under said tenant.

4 (ii) If the landlord does not order a warrant of restitution within
5 sixty days from the date of judgment or from the expiration date of any stay of
6 execution, whichever shall be the later, the judgment for possession shall be stricken,
7 EXCEPT THAT THE JUDGMENT SHALL BE APPLIED TO THE NUMBER OF JUDGMENTS
8 NECESSARY TO FORECLOSE A TENANT'S RIGHT TO REDEMPTION OF THE LEASED
9 PREMISES AS ESTABLISHED IN SUBSECTION (E)(2) OF THIS SECTION.

10 (III) IF THE LANDLORD ORDERS A WARRANT OF RESTITUTION BUT
11 TAKES NO ACTION ON THE WARRANT WITHIN 60 DAYS FROM THE LATER OF THE
12 DATE THE COURT ISSUES THE ORDER FOR THE WARRANT OR THE DATE AS
13 OTHERWISE EXTENDED BY THE COURT, THE WARRANT OF RESTITUTION SHALL
14 EXPIRE AND THE JUDGMENT FOR POSSESSION SHALL BE STRICKEN EXCEPT THAT
15 THE JUDGMENT SHALL BE APPLIED TO THE NUMBER OF JUDGMENTS NECESSARY TO
16 FORECLOSE A TENANT'S RIGHT TO REDEMPTION OF THE LEASED PREMISES AS
17 ESTABLISHED IN SUBSECTION (E)(2) OF THIS SECTION.

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

21 (ii) When a stay has been granted under this paragraph, the
22 execution of the warrant of restitution for which the stay has been granted shall be
23 given priority and completed within 3 days after the extreme weather conditions
24 cease.

25 (e) (1) [In] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN any action
26 of summary ejection for failure to pay rent where the landlord is awarded a
27 judgment giving the landlord restitution of the leased premises, the tenant shall have
28 the right to redemption of the leased premises by tendering in cash, certified check or
29 money order to the landlord or the landlord's agent all past due amounts, as
30 determined by the court under subsection (c) of this section, plus all court awarded
31 costs and fees, at any time before actual execution of the eviction order.

32 (2) This subsection does not apply to any tenant against whom 3
33 judgments of possession have been entered for rent due and unpaid in the 12 months
34 prior to the initiation of the action to which this subsection otherwise would apply.

35 (f) (1) The tenant or the landlord may appeal from the judgment of the
36 District Court to the circuit court for any county at any time within 4 days from the
37 rendition of the judgment.

38 (2) The tenant, in order to stay any execution of the judgment, shall give
39 a bond to the landlord with one or more sureties, who are owners of sufficient
40 property in the State of Maryland, with condition to prosecute the appeal with effect,
41 and answer to the landlord in all costs and damages mentioned in the judgment, and
42 other damages as shall be incurred and sustained by reason of the appeal.

1 (3) The bond shall not affect in any manner the right of the landlord to
2 proceed against the tenant, assignee or subtenant for any and all rents that may
3 become due and payable to the landlord after the rendition of the judgment.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2006.