

HOUSE BILL 922

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HB 1593/06 – ENV

71r1494

By: **Delegates Hucker, Ali, Lafferty, Lawton, McConkey, Pena–Melnik, Sossi, Stein, and Tarrant**

Introduced and read first time: February 9, 2007

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Landlord and Tenant – Expiration of Warrant – Striking Judgment for**
3 **Possession**

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
11 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 (2003 Replacement Volume and 2006 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.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

8 (i) Describing in general terms the property sought to be
9 repossessed;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 1. If personal service is requested and any of the persons
21 whom the sheriff shall serve is found on the property, the sheriff shall serve any such
22 persons; or

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

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

1 in the case of a nonresidential tenancy, there was such service of process or
2 submission to the jurisdiction of the court as would support a judgment in contract or
3 tort.

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

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

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

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

20 (d) (1) (i) Subject to the provisions of paragraph (2) of this subsection,
21 if judgment is given in favor of the landlord, and the tenant fails to comply with the
22 requirements of the order within 4 days, the court shall, at any time after the
23 expiration of the 4 days, issue its warrant, directed to any official of the county
24 entitled to serve process, ordering the official to cause the landlord to have again and
25 repossess the property by putting the landlord (or the landlord's duly qualified agent
26 or attorney for the landlord's benefit) in possession thereof, and for that purpose to
27 remove from the property, by force if necessary, all the furniture, implements, tools,
28 goods, effects or other chattels of every description whatsoever belonging to the tenant,
29 or to any person claiming or holding by or under said tenant.

30 (ii) If the landlord does not order a warrant of restitution within
31 sixty days from the date of judgment or from the expiration date of any stay of
32 execution, whichever shall be the later[,]:

33 1. [the] **THE** judgment for possession shall be
34 stricken[,]; **AND**

1 **2. THE JUDGMENT SHALL BE APPLIED TO THE**
2 **NUMBER OF JUDGMENTS NECESSARY TO FORECLOSE A TENANT'S RIGHT TO**
3 **REDEMPTION OF THE LEASED PREMISES AS ESTABLISHED IN SUBSECTION**
4 **(E)(2) OF THIS SECTION UNLESS THE COURT IN ITS DISCRETION DETERMINES**
5 **THAT THE JUDGMENT MAY NOT APPLY FOR PURPOSES OF SUBSECTION (E)(2) OF**
6 **THIS SECTION.**

7 **(III) IF THE LANDLORD ORDERS A WARRANT OF**
8 **RESTITUTION BUT TAKES NO ACTION ON THE WARRANT WITHIN 60 DAYS FROM**
9 **THE LATER OF THE DATE THE COURT ISSUES THE ORDER FOR THE WARRANT OR**
10 **THE DATE AS OTHERWISE EXTENDED BY THE COURT:**

11 **1. THE WARRANT OF RESTITUTION SHALL EXPIRE**
12 **AND THE JUDGMENT FOR POSSESSION SHALL BE STRICKEN; AND**

13 **2. THE JUDGMENT SHALL BE APPLIED TO THE**
14 **NUMBER OF JUDGMENTS NECESSARY TO FORECLOSE A TENANT'S RIGHT TO**
15 **REDEMPTION OF THE LEASED PREMISES AS ESTABLISHED IN SUBSECTION**
16 **(E)(2) OF THIS SECTION UNLESS THE COURT IN ITS DISCRETION DETERMINES**
17 **THAT THE JUDGMENT MAY NOT APPLY FOR PURPOSES OF SUBSECTION (E)(2) OF**
18 **THIS SECTION.**

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

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

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

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

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

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

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

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2007.