

HOUSE BILL 1340

N1

71r3073

By: **Delegates Niemann and Holmes**

Introduced and read first time: March 1, 2007

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Landlord and Tenant – Summary Ejectment – Deceased Tenant**

3 FOR the purpose of authorizing a landlord to bring an action of summary ejectment
4 against a deceased, intestate tenant without next of kin under certain
5 circumstances; requiring a landlord to state in a certain written complaint that
6 the tenant is deceased, intestate, and without next of kin; providing that certain
7 property shall be presumed abandoned under certain circumstances; and
8 generally relating to an action of summary ejectment against a deceased tenant.

9 BY repealing and reenacting, with amendments,
10 Article – Real Property
11 Section 8–401
12 Annotated Code of Maryland
13 (2003 Replacement Volume and 2006 Supplement)

14 BY adding to
15 Article – Real Property
16 Section 8–405
17 Annotated Code of Maryland
18 (2003 Replacement Volume and 2006 Supplement)

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

21 **Article – Real Property**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 8-401.

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

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

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

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

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

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

17 (v) **IF APPLICABLE, STATING THAT THE TENANT IS**
18 **DECEASED, INTESTATE, AND WITHOUT NEXT OF KIN;** and

19 [(v)] (vi) If the property to be repossessed is an affected
20 property as defined in § 6-801 of the Environment Article, stating that the landlord
21 has registered the affected property as required under § 6-811 of the Environment
22 Article and renewed the registration as required under § 6-812 of the Environment
23 Article and:

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

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

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

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

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

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

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

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

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

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

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

25 1. If personal service is requested and any of the persons
26 whom the sheriff shall serve is found on the property, the sheriff shall serve any such
27 persons; or

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

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

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

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

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

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

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

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

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

1 (ii) If the landlord does not order a warrant of restitution within
2 sixty days from the date of judgment or from the expiration date of any stay of
3 execution, whichever shall be the later, the judgment for possession shall be stricken.

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

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

11 (e) (1) In any action of summary ejection for failure to pay rent where
12 the landlord is awarded a judgment giving the landlord restitution of the leased
13 premises, the tenant shall have the right to redemption of the leased premises by
14 tendering in cash, certified check or money order to the landlord or the landlord's
15 agent all past due amounts, as determined by the court under subsection (c) of this
16 section, plus all court awarded costs and fees, at any time before actual execution of
17 the eviction order.

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

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

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

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

32 **8-405.**

1 (A) IF A TENANT UNDER A LEASE DIES INTESTATE AND WITHOUT NEXT
2 OF KIN, A LANDLORD MAY BRING AN ACTION OF SUMMARY EJECTMENT UNDER §
3 8-401 OF THIS SUBTITLE AGAINST THE TENANT NAMED IN THE LEASE
4 REGARDLESS OF THE TENANT'S DEATH.

5 (B) THE LANDLORD SHALL CERTIFY TO THE COURT IN THE WRITTEN
6 COMPLAINT REQUIRED UNDER § 8-401(B)(1) OF THIS SUBTITLE THAT THE
7 TENANT IS DECEASED, INTESTATE, AND WITHOUT NEXT OF KIN.

8 (C) ALL PROPERTY OR ANY INCOME FROM PROPERTY THAT A
9 LANDLORD HOLDS FOR A DECEASED, INTESTATE RESIDENT WITHOUT NEXT OF
10 KIN SHALL BE PRESUMED ABANDONED IN ACCORDANCE WITH TITLE 17 OF THE
11 COMMERCIAL LAW ARTICLE.

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