

HOUSE BILL 1361

N1
HB 446/07 – JUD

9lr2505

By: **Delegate Dumais**

Introduced and read first time: February 19, 2009

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Wrongful Detainer**

3 FOR the purpose of transferring certain provisions of law regarding wrongful detainer
4 of real property; establishing that certain provisions of law relating to persons
5 who hold possession of property without the right of possession do not apply to
6 cases in which possession of the property has been granted under a court order;
7 establishing that certain provisions of law relating to persons who hold
8 possession of property without the right of possession do not apply to cases in
9 which the parties had a certain landlord–tenant relationship under certain
10 circumstances; requiring a certain warrant to be issued and executed by the
11 sheriff if a court rules in favor of a person claiming possession in a certain
12 action; clarifying that certain provisions of law relating to wrongful detainer
13 apply to real property; and generally relating to the applicability of certain
14 provisions of law relating to wrongful possession of property.

15 BY repealing and reenacting, with amendments,
16 Article – Real Property
17 Section 8–402.4
18 Annotated Code of Maryland
19 (2003 Replacement Volume and 2008 Supplement)

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

22 **Article – Real Property**

23 **[8–402.4.] 14–130.**

24 (a) In this [subtitle] SECTION, “wrongful detainer” means to hold possession
25 of [a] REAL property without the right of possession.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(B) THERE IS NO CAUSE OF ACTION UNDER THIS SECTION:**

2 **(1) WHEN POSSESSION OF THE PROPERTY HAS BEEN GRANTED**
3 **UNDER A COURT ORDER; OR**

4 **(2) IF THE PERSON CLAIMING POSSESSION IS THE LANDLORD OF**
5 **THE PERSON HOLDING POSSESSION AND SEEKS TO RECOVER THE PROPERTY,**
6 **SUBJECT TO THAT RELATIONSHIP.**

7 **[(b)] (C)** A person may not hold possession of property unless the person is
8 entitled to possession of the property under the law.

9 **[(c)] (D)** (1) If a person [other than a tenant holding over] violates
10 subsection **[(b)] (C)** of this section, a person claiming possession may make complaint
11 in writing to the District Court of the county in which the property is located.

12 (2) On receipt of a complaint under paragraph (1) of this subsection,
13 the court shall summons immediately the person in possession to appear before the
14 court on the day specified in the summons to show cause, if any, why restitution of the
15 possession of the property to the person filing the complaint should not be made.

16 (3) If, for any reason, the person in actual possession cannot be found,
17 the person authorized to serve process by the Maryland Rules shall affix an attested
18 copy of the summons conspicuously on the property.

19 (4) If notice of the summons is sent to the person in possession by first
20 class mail, the affixing of the summons in accordance with paragraph (3) of this
21 subsection shall constitute sufficient service to support restitution of possession.

22 **[(d)] (E)** A counterclaim or cross-claim may not be filed in an action
23 brought under this section.

24 **[(e)] (F)** (1) If the court determines that the complainant is legally
25 entitled to possession, the court shall:

26 (i) Give judgment for restitution of the possession of the
27 property to the complainant; and

28 (ii) Issue its warrant to the sheriff or constable commanding the
29 sheriff or constable to deliver possession to the complainant.

30 (2) The court may also give judgment in favor of the complainant for
31 damages due to the wrongful detainer and for court costs and attorney fees if:

32 (i) The complainant claimed damages in the complaint; and

33 (ii) The court finds that:

1 [(g)] (H) If the judgment of the circuit court shall be in favor of the
2 [landlord] **PERSON CLAIMING POSSESSION**, a warrant shall be issued by the court to
3 the sheriff, who shall proceed immediately to execute the warrant.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2009.