

# HOUSE BILL 1308

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CF SB 642

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By: **Delegates Healey, Glenn, Beidle, Bobo, Cane, Hucker, Lafferty, McIntosh,  
Niemann, S. Robinson, Stein, Weir, and Wilson**

Introduced and read first time: February 8, 2013

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Residential Real Property – Prohibition on Nonjudicial Evictions**

3 FOR the purpose of prohibiting certain persons from taking possession or threatening  
4 to take possession of residential property from a certain protected resident in a  
5 certain manner; establishing that certain persons may take possession of  
6 residential property from a certain protected resident only under certain  
7 circumstances; prohibiting a landlord from taking possession or threatening to  
8 take possession of a dwelling unit from a tenant or tenant holding over in a  
9 certain manner; establishing that a landlord may take possession of a dwelling  
10 unit from a tenant or tenant holding over only under certain circumstances;  
11 prohibiting a mobile home park owner from taking possession or threatening to  
12 take possession of leased premises from a resident in a certain manner;  
13 establishing that a mobile home park owner may take possession of leased  
14 premises from a resident only under certain circumstances; providing certain  
15 remedies for a violation of this Act; providing that the remedies are not  
16 exclusive and that certain persons may recover certain other damages under  
17 any other applicable law; defining certain terms; and generally relating to  
18 nonjudicial evictions.

19 BY adding to

20 Article – Real Property  
21 Section 7–112, 8–216, and 8A–1102  
22 Annotated Code of Maryland  
23 (2010 Replacement Volume and 2012 Supplement)

24 Preamble

25 WHEREAS, The General Assembly has created numerous expedited court  
26 processes to assist owners of residential real property in quickly recovering possession  
27 of their properties with the assistance of the sheriff; and

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, So-called self-help evictions in the residential context are  
2 inconsistent with human dignity and human rights and will lead to an increased  
3 potential for violent confrontations and sudden homelessness; and

4 WHEREAS, The General Assembly intends to supersede the ruling of the Court  
5 of Appeals of Maryland in *Nickens v. Mount Vernon Realty Group, et al.*, 429 Md. 53  
6 (2012), and abrogate any right to so-called self-help eviction that owners may possess  
7 in the context of residential foreclosures, tax sale foreclosures, landlord-tenant  
8 actions, and mobile home park actions; now, therefore,

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

11 **Article – Real Property**

12 **7-112.**

13 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
14 MEANINGS INDICATED.

15 (2) “PROTECTED RESIDENT” MEANS A CURRENT OR FORMER  
16 OWNER, MORTGAGOR, OR GRANTOR, OR A TENANT OR ANOTHER PERSON  
17 CLAIMING UNDER A CURRENT OR FORMER OWNER, MORTGAGOR, GRANTOR, OR  
18 TENANT, WHO IS RESIDING IN RESIDENTIAL PROPERTY.

19 (3) “RESIDENTIAL PROPERTY” MEANS A BUILDING, STRUCTURE,  
20 OR PORTION OF A BUILDING OR STRUCTURE THAT IS OCCUPIED, DESIGNED, OR  
21 INTENDED FOR OCCUPANCY AS A RESIDENCE BY ONE OR MORE FAMILIES.

22 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
23 SUBSECTION, A SECURED PARTY, FORECLOSURE SALE PURCHASER, PLAINTIFF  
24 IN A TAX SALE FORECLOSURE UNDER TITLE 14 OF THE TAX – PROPERTY  
25 ARTICLE, OR A SUCCESSOR TO A SECURED PARTY, FORECLOSURE SALE  
26 PURCHASER, OR PLAINTIFF IN A TAX SALE FORECLOSURE MAY NOT TAKE  
27 POSSESSION OR THREATEN TO TAKE POSSESSION OF RESIDENTIAL PROPERTY  
28 FROM A PROTECTED RESIDENT BY LOCKING THE RESIDENT OUT OR ANY OTHER  
29 ACTION, INCLUDING WILLFUL DIMINUTION OF SERVICES TO THE PROTECTED  
30 RESIDENT BY INTERRUPTING OR CAUSING THE INTERRUPTION OF HEAT,  
31 RUNNING WATER, HOT WATER, ELECTRICITY, GAS, OR OTHER ESSENTIAL  
32 SERVICES.

33 (2) A SECURED PARTY, FORECLOSURE SALE PURCHASER,  
34 PLAINTIFF IN A TAX SALE FORECLOSURE UNDER TITLE 14 OF THE TAX –  
35 PROPERTY ARTICLE, OR A SUCCESSOR TO A SECURED PARTY, FORECLOSURE

1 SALE PURCHASER, OR PLAINTIFF IN A TAX SALE FORECLOSURE MAY TAKE  
2 POSSESSION OF RESIDENTIAL PROPERTY FROM A PROTECTED RESIDENT ONLY:

3 (I) IN ACCORDANCE WITH A WRIT OF POSSESSION ISSUED  
4 BY A COURT AND EXECUTED BY A SHERIFF OR CONSTABLE; OR

5 (II) IF THE PROTECTED RESIDENT HAS ABANDONED OR  
6 SURRENDERED POSSESSION OF THE PROPERTY.

7 (C) (1) IF IN ANY PROCEEDING THE COURT FINDS THAT A SECURED  
8 PARTY, FORECLOSURE SALE PURCHASER, PLAINTIFF IN A TAX SALE  
9 FORECLOSURE UNDER TITLE 14 OF THE TAX – PROPERTY ARTICLE, OR A  
10 SUCCESSOR TO A SECURED PARTY, FORECLOSURE SALE PURCHASER, OR  
11 PLAINTIFF IN A TAX SALE VIOLATED SUBSECTION (B) OF THIS SECTION, THE  
12 PROTECTED RESIDENT MAY RECOVER:

13 (I) POSSESSION OF THE PROPERTY;

14 (II) THREE TIMES ACTUAL DAMAGES; AND

15 (III) REASONABLE ATTORNEY’S FEES AND COSTS.

16 (2) (I) THE REMEDIES SET FORTH IN THIS SUBSECTION ARE  
17 NOT EXCLUSIVE.

18 (II) A PROTECTIVE RESIDENT OR ANY PERSON CLAIMING  
19 UNDER A PROTECTED RESIDENT MAY RECOVER ANY OTHER ACTUAL OR  
20 CONSEQUENTIAL DAMAGES AVAILABLE UNDER ANY OTHER APPLICABLE LAW.

21 8–216.

22 (A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
23 SUBSECTION, A LANDLORD MAY NOT TAKE POSSESSION OR THREATEN TO TAKE  
24 POSSESSION OF A DWELLING UNIT FROM A TENANT OR TENANT HOLDING OVER  
25 BY LOCKING THE TENANT OUT OR ANY OTHER ACTION, INCLUDING WILLFUL  
26 DIMINUTION OF SERVICES TO THE TENANT BY INTERRUPTING OR CAUSING THE  
27 INTERRUPTION OF HEAT, RUNNING WATER, HOT WATER, ELECTRICITY, GAS, OR  
28 OTHER ESSENTIAL SERVICES.

29 (2) A LANDLORD MAY TAKE POSSESSION OF A DWELLING UNIT  
30 FROM A TENANT OR TENANT HOLDING OVER ONLY:

1                   **(I) IN ACCORDANCE WITH A WARRANT OF RESTITUTION**  
2 **ISSUED BY A COURT AND EXECUTED BY A SHERIFF OR CONSTABLE; OR**

3                   **(II) IF THE TENANT HAS ABANDONED OR SURRENDERED**  
4 **POSSESSION OF THE DWELLING UNIT.**

5           **(B) (1) IF IN ANY PROCEEDING THE COURT FINDS IN FAVOR OF THE**  
6 **TENANT BECAUSE THE LANDLORD VIOLATED SUBSECTION (A) OF THIS SECTION,**  
7 **THE TENANT MAY:**

8                   **(I) RECOVER POSSESSION OF THE PROPERTY OR**  
9 **TERMINATE THE LEASE AGREEMENT;**

10                   **(II) RECOVER THE GREATER OF THREE TIMES ACTUAL**  
11 **DAMAGES OR THREE MONTHS' PERIODIC RENT; AND**

12                   **(III) RECOVER REASONABLE ATTORNEY'S FEES AND COSTS.**

13                   **(2) (I) THE REMEDIES SET FORTH IN THIS SUBSECTION ARE**  
14 **NOT EXCLUSIVE.**

15                   **(II) A TENANT OR ANY PERSON CLAIMING UNDER A TENANT**  
16 **MAY RECOVER ANY OTHER ACTUAL OR CONSEQUENTIAL DAMAGES AVAILABLE**  
17 **UNDER ANY OTHER APPLICABLE LAW.**

18 **8A-1102.**

19           **(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
20 **SUBSECTION, A PARK OWNER MAY NOT TAKE POSSESSION OR THREATEN TO**  
21 **TAKE POSSESSION OF LEASED PREMISES FROM A RESIDENT OR RESIDENT**  
22 **HOLDING OVER BY LOCKING THE RESIDENT OUT OR ANY OTHER ACTION,**  
23 **INCLUDING WILLFUL DIMINUTION OF SERVICES TO THE RESIDENT BY**  
24 **INTERRUPTING OR CAUSING THE INTERRUPTION OF HEAT, RUNNING WATER,**  
25 **HOT WATER, ELECTRICITY, GAS, OR OTHER ESSENTIAL SERVICES.**

26                   **(2) A PARK OWNER MAY TAKE POSSESSION OF LEASED PREMISES**  
27 **FROM A RESIDENT OR RESIDENT HOLDING OVER ONLY:**

28                   **(I) IN ACCORDANCE WITH A WARRANT OF RESTITUTION**  
29 **ISSUED BY A COURT AND EXECUTED BY A SHERIFF OR CONSTABLE; OR**

30                   **(II) IF THE RESIDENT HAS ABANDONED OR SURRENDERED**  
31 **POSSESSION OF THE LEASED PREMISES.**

1           **(B) (1) IF IN ANY PROCEEDING THE COURT FINDS IN FAVOR OF THE**  
2 **RESIDENT BECAUSE THE PARK OWNER VIOLATED SUBSECTION (A) OF THIS**  
3 **SECTION, THE RESIDENT MAY:**

4                           **(I) RECOVER POSSESSION OF THE LEASED PREMISES OR**  
5 **TERMINATE THE RENTAL AGREEMENT;**

6                           **(II) RECOVER THE GREATER OF THREE TIMES ACTUAL**  
7 **DAMAGES OR THREE MONTHS' PERIODIC RENT; AND**

8                           **(III) RECOVER REASONABLE ATTORNEY'S FEES AND COSTS.**

9                   **(2) (I) THE REMEDIES SET FORTH IN THIS SUBSECTION ARE**  
10 **NOT EXCLUSIVE.**

11                           **(II) A RESIDENT OR ANY PERSON CLAIMING UNDER A**  
12 **RESIDENT MAY RECOVER ANY OTHER ACTUAL OR CONSEQUENTIAL DAMAGES**  
13 **AVAILABLE UNDER ANY OTHER APPLICABLE LAW.**

14           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 October 1, 2013.