

HOUSE BILL 1308

N1

3lr1694
CF SB 642

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

Introduced and read first time: February 8, 2013
Assigned to: Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 17, 2013

CHAPTER _____

1 AN ACT concerning

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY adding to
 2 Article – Real Property
 3 Section 7–112, 8–216, and 8A–1102
 4 Annotated Code of Maryland
 5 (2010 Replacement Volume and 2012 Supplement)

6 **Preamble**

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

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

13 ~~WHEREAS, The General Assembly intends to supersede the ruling of the Court~~
 14 ~~of Appeals of Maryland in Nickens v. Mount Vernon Realty Group, et al., 420 Md. 53~~
 15 ~~(2012), and abrogate any right to so-called self-help eviction that owners may possess~~
 16 ~~in the context of residential foreclosures, tax sale foreclosures, landlord-tenant~~
 17 ~~actions, and mobile home park actions; now, therefore,~~

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

20 **Article – Real Property**

21 **7–112.**

22 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
 23 MEANINGS INDICATED.

24 (2) “PARTY CLAIMING THE RIGHT TO POSSESSION” MEANS A
 25 PERSON OR SUCCESSOR TO ANY PERSON WHO:

26 (I) DOES NOT HAVE ACTUAL POSSESSION OF A
 27 RESIDENTIAL PROPERTY; AND

28 (II) HAS OR CLAIMS TO HAVE A LEGAL RIGHT TO
 29 POSSESSION OF THE RESIDENTIAL PROPERTY:

30 1. BY THE TERMS OF A CONTRACT OR FORECLOSURE
 31 SALE; OR

1 **2. UNDER A COURT ORDER, INCLUDING A COURT**
 2 **ORDER EXTINGUISHING A RIGHT OF REDEMPTION.**

3 ~~(2)~~ **(3) (I) “PROTECTED RESIDENT” MEANS A CURRENT AN**
 4 **OWNER OR FORMER OWNER, MORTGAGOR, OR GRANTOR, OR A TENANT OR**
 5 **ANOTHER PERSON CLAIMING UNDER A CURRENT OR FORMER OWNER,**
 6 **MORTGAGOR, GRANTOR, OR TENANT, WHO IS RESIDING IN ACTUAL POSSESSION**
 7 **OF RESIDENTIAL PROPERTY.**

8 **(II) “PROTECTED RESIDENT” INCLUDES A GRANTEE,**
 9 **TENANT, SUBTENANT, OR OTHER PERSON IN ACTUAL POSSESSION BY,**
 10 **THROUGH, OR UNDER AN OWNER OR FORMER OWNER OF RESIDENTIAL**
 11 **PROPERTY.**

12 **(III) “PROTECTED RESIDENT” DOES NOT INCLUDE A**
 13 **TRESPASSER OR SQUATTER.**

14 ~~(3)~~ **(4) “RESIDENTIAL PROPERTY” MEANS A BUILDING,**
 15 **STRUCTURE, OR PORTION OF A BUILDING OR STRUCTURE THAT IS ~~OCCUPIED,~~**
 16 **~~DESIGNED, OR INTENDED FOR OCCUPANCY AS A RESIDENCE BY ONE OR MORE~~**
 17 **~~FAMILIES~~ DESIGNED PRINCIPALLY AND IS INTENDED FOR HUMAN HABITATION.**

18 **(5) “THREATEN TO TAKE POSSESSION” MEANS USING WORDS OR**
 19 **ACTIONS INTENDED TO CONVINCE A REASONABLE PERSON THAT A PARTY**
 20 **CLAIMING THE RIGHT TO POSSESSION INTENDS TO TAKE IMMINENT POSSESSION**
 21 **OF RESIDENTIAL PROPERTY IN VIOLATION OF THIS SECTION.**

22 **(6) “WILLFUL DIMINUTION OF SERVICES” MEANS**
 23 **INTENTIONALLY INTERRUPTING OR CAUSING THE INTERRUPTION OF HEAT,**
 24 **RUNNING WATER, HOT WATER, ELECTRICITY, OR GAS BY A PARTY CLAIMING THE**
 25 **RIGHT TO POSSESSION FOR THE PURPOSE OF FORCING A PROTECTED RESIDENT**
 26 **TO ABANDON RESIDENTIAL PROPERTY.**

27 **(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
 28 **SUBSECTION, A ~~SECURED PARTY, FORECLOSURE SALE PURCHASER, PLAINTIFF~~**
 29 **~~IN A TAX SALE FORECLOSURE UNDER TITLE 14 OF THE TAX PROPERTY~~**
 30 **~~ARTICLE, OR A SUCCESSOR TO A SECURED PARTY, FORECLOSURE SALE~~**
 31 **~~PURCHASER, OR PLAINTIFF IN A TAX SALE FORECLOSURE~~ PARTY CLAIMING THE**
 32 **RIGHT TO POSSESSION MAY NOT TAKE POSSESSION OR THREATEN TO TAKE**
 33 **POSSESSION OF RESIDENTIAL PROPERTY FROM A PROTECTED RESIDENT BY**
 34 **~~LOCKING:~~**

35 **(I) LOCKING THE RESIDENT OUT ~~OR ANY OTHER ACTION,~~**
 36 **~~INCLUDING WILLFUL DIMINUTION OF SERVICES TO THE PROTECTED RESIDENT~~**

~~BY INTERRUPTING OR CAUSING THE INTERRUPTION OF HEAT, RUNNING WATER, HOT WATER, ELECTRICITY, GAS, OR OTHER ESSENTIAL SERVICES OF THE RESIDENTIAL PROPERTY;~~

(II) ENGAGING IN WILLFUL DIMINUTION OF SERVICES TO THE PROTECTED RESIDENT; OR

(III) TAKING ANY OTHER ACTION THAT DEPRIVES THE PROTECTED RESIDENT OF ACTUAL POSSESSION.

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

(I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A PARTY CLAIMING THE RIGHT TO POSSESSION MAY TAKE POSSESSION OF RESIDENTIAL PROPERTY FROM A PROTECTED RESIDENT ONLY;

~~(H) IN IN ACCORDANCE WITH A WRIT OF POSSESSION ISSUED BY A COURT AND EXECUTED BY A SHERIFF OR CONSTABLE; OR.~~

~~IF THE PROTECTED RESIDENT HAS ABANDONED OR SURRENDERED POSSESSION OF THE PROPERTY~~ A PARTY CLAIMING THE RIGHT TO POSSESSION OF RESIDENTIAL PROPERTY MAY USE NONJUDICIAL SELF-HELP TO TAKE POSSESSION OF THE PROPERTY, IF THE PARTY:

1. REASONABLY BELIEVES THE PROTECTED RESIDENT HAS ABANDONED OR SURRENDERED POSSESSION OF THE PROPERTY BASED ON A REASONABLE INQUIRY INTO THE OCCUPANCY STATUS OF THE PROPERTY;

2. PROVIDES NOTICE AS PROVIDED IN SUBSECTION (C) OF THIS SECTION; AND

3. RECEIVES NO RESPONSIVE COMMUNICATION TO THAT NOTICE WITHIN 15 DAYS AFTER THE LATER OF POSTING OR MAILING THE NOTICE AS REQUIRED BY SUBSECTION (C) OF THIS SECTION.

(C) (1) IF A PARTY CLAIMING THE RIGHT TO POSSESSION OF RESIDENTIAL PROPERTY REASONABLY BELIEVES, BASED ON A REASONABLE INQUIRY INTO THE OCCUPANCY STATUS OF THE PROPERTY, THAT ALL PROTECTED RESIDENTS HAVE ABANDONED OR SURRENDERED POSSESSION OF THE RESIDENTIAL PROPERTY, THE PARTY CLAIMING THE RIGHT TO POSSESSION

1 MAY POST ON THE FRONT DOOR OF THE RESIDENTIAL PROPERTY AND MAIL BY
 2 FIRST-CLASS MAIL ADDRESSED TO “ALL OCCUPANTS” AT THE ADDRESS OF THE
 3 RESIDENTIAL PROPERTY A WRITTEN NOTICE IN SUBSTANTIALLY THE
 4 FOLLOWING FORM:

5 “IMPORTANT NOTICE ABOUT EVICTION

6 A PERSON WHO CLAIMS THE RIGHT TO POSSESS THIS PROPERTY BELIEVES
 7 THAT THIS PROPERTY IS ABANDONED. IF YOU ARE CURRENTLY RESIDING IN
 8 THE PROPERTY, YOU MUST IMMEDIATELY CONTACT:

9 _____
 10 NAME

11 _____
 12 ADDRESS

13 _____
 14 TELEPHONE

15 _____
 16 DATE OF THIS NOTICE

17 IF YOU DO NOT CONTACT THE PERSON LISTED ABOVE WITHIN 15 DAYS AFTER
 18 THE DATE OF THIS NOTICE, THE PERSON CLAIMING POSSESSION MAY CONSIDER
 19 THE PROPERTY ABANDONED AND SEEK TO SECURE THE PROPERTY, INCLUDING
 20 CHANGING THE LOCKS WITHOUT A COURT ORDER.”.

21 (2) THE WRITTEN NOTICE REQUIRED BY THIS SUBSECTION SHALL
 22 BE:

23 (i) A SEPARATE DOCUMENT; AND

24 (ii) PRINTED IN AT LEAST 12 POINT TYPE.

25 (3) THE OUTSIDE OF THE ENVELOPE CONTAINING THE MAILED
 26 WRITTEN NOTICE REQUIRED BY THIS SUBSECTION SHALL STATE, ON THE
 27 ADDRESS SIDE, IN BOLD, CAPITAL LETTERS IN AT LEAST 12 POINT TYPE, THE
 28 FOLLOWING: “IMPORTANT NOTICE TO ALL OCCUPANTS: EVICTION
 29 INFORMATION ENCLOSED; OPEN IMMEDIATELY.”.

30 ~~(c) (D)~~ (1) IF IN ANY PROCEEDING THE COURT FINDS THAT A
 31 ~~SECURED PARTY, FORECLOSURE SALE PURCHASER, PLAINTIFF IN A TAX SALE~~
 32 ~~FORECLOSURE UNDER TITLE 14 OF THE TAX – PROPERTY ARTICLE, OR A~~

1 ~~SUCCESSOR TO A SECURED PARTY, FORECLOSURE SALE PURCHASER, OR~~
 2 ~~PLAINTIFF IN A TAX SALE~~ PARTY CLAIMING THE RIGHT TO POSSESSION
 3 VIOLATED SUBSECTION (B) OF THIS SECTION, THE PROTECTED RESIDENT MAY
 4 RECOVER:

5 (I) POSSESSION OF THE PROPERTY, IF NO OTHER PERSON
 6 THEN RESIDES IN THE PROPERTY;

7 (II) ~~THREE TIMES ACTUAL~~ ACTUAL DAMAGES; AND

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

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

11 ~~(H) A PROTECTIVE RESIDENT OR ANY PERSON CLAIMING~~
 12 ~~UNDER A PROTECTED RESIDENT MAY RECOVER ANY OTHER ACTUAL OR~~
 13 ~~CONSEQUENTIAL DAMAGES AVAILABLE UNDER ANY OTHER APPLICABLE LAW.~~

14 (E) THIS SECTION DOES NOT APPLY IF THE PARTIES ARE GOVERNED BY
 15 TITLE 8, SUBTITLE 2, OR TITLE 8A OF THIS ARTICLE.

16 8-216.

17 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
 18 MEANINGS INDICATED.

19 (2) "THREATEN TO TAKE POSSESSION" MEANS USING WORDS OR
 20 ACTIONS INTENDED TO CONVINCE A REASONABLE PERSON THAT THE
 21 LANDLORD INTENDS TO TAKE IMMEDIATE POSSESSION OF THE PROPERTY IN
 22 VIOLATION OF THIS SECTION.

23 (3) (I) "WILLFUL DIMINUTION OF SERVICES" MEANS
 24 INTENTIONALLY INTERRUPTING OR CAUSING THE INTERRUPTION OF HEAT,
 25 RUNNING WATER, HOT WATER, ELECTRICITY, OR GAS BY THE LANDLORD FOR
 26 THE PURPOSE OF FORCING A TENANT TO ABANDON THE PROPERTY.

27 (II) "WILLFUL DIMINUTION OF SERVICES" DOES NOT
 28 INCLUDE A LANDLORD CHOOSING NOT TO CONTINUE TO PAY FOR UTILITY
 29 SERVICE FOR RESIDENTIAL PROPERTY AFTER A FINAL COURT ORDER
 30 AWARDING POSSESSION OF THE RESIDENTIAL PROPERTY, IF THE LANDLORD
 31 HAS PROVIDED THE TENANT REASONABLE NOTICE OF THE LANDLORD'S
 32 INTENTION AND THE OPPORTUNITY FOR THE TENANT TO OPEN AN ACCOUNT IN
 33 THE TENANT'S NAME FOR THAT SERVICE.

1 ~~(A)~~ (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
2 SUBSECTION, A LANDLORD MAY NOT TAKE POSSESSION OR THREATEN TO TAKE
3 POSSESSION OF A DWELLING UNIT FROM A TENANT OR TENANT HOLDING OVER
4 BY LOCKING THE TENANT OUT OR ANY OTHER ACTION, INCLUDING WILLFUL
5 DIMINUTION OF SERVICES TO THE TENANT ~~BY INTERRUPTING OR CAUSING THE~~
6 ~~INTERRUPTION OF HEAT, RUNNING WATER, HOT WATER, ELECTRICITY, GAS, OR~~
7 ~~OTHER ESSENTIAL SERVICES.~~

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

10 (I) IN ACCORDANCE WITH A WARRANT OF RESTITUTION
11 ISSUED BY A COURT AND EXECUTED BY A SHERIFF OR CONSTABLE; OR

12 (II) IF THE TENANT HAS ABANDONED OR SURRENDERED
13 POSSESSION OF THE DWELLING UNIT.

14 ~~(B)~~ (C) (1) IF IN ANY PROCEEDING THE COURT FINDS IN FAVOR OF
15 THE TENANT BECAUSE THE LANDLORD VIOLATED SUBSECTION ~~(A)~~ (B) OF THIS
16 SECTION, THE TENANT MAY RECOVER:

17 (I) ~~RECOVER POSSESSION OF THE PROPERTY OR~~
18 ~~TERMINATE THE LEASE AGREEMENT;~~

19 ~~(II) RECOVER THE GREATER OF THREE TIMES ACTUAL~~
20 ~~ACTUAL DAMAGES OR THREE MONTHS' PERIODIC RENT; AND~~

21 ~~(III) RECOVER REASONABLE~~

22 (II) REASONABLE ATTORNEY'S FEES AND COSTS.

23 (2) ~~(I)~~ THE REMEDIES SET FORTH IN THIS SUBSECTION ARE
24 NOT EXCLUSIVE.

25 ~~(II) A TENANT OR ANY PERSON CLAIMING UNDER A TENANT~~
26 ~~MAY RECOVER ANY OTHER ACTUAL OR CONSEQUENTIAL DAMAGES AVAILABLE~~
27 ~~UNDER ANY OTHER APPLICABLE LAW.~~

28 (D) THIS SECTION MAY NOT BE CONSTRUED TO PREVENT A LANDLORD
29 FROM TAKING TEMPORARY MEASURES, INCLUDING CHANGING THE LOCKS, TO
30 SECURE AN UNSECURED RESIDENTIAL PROPERTY, IF THE LANDLORD MAKES
31 GOOD FAITH ATTEMPTS TO PROVIDE REASONABLE NOTICE TO THE TENANT

1 THAT THE TENANT MAY PROMPTLY BE RESTORED TO POSSESSION OF THE
2 PROPERTY.

3 8A-1102.

4 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
5 MEANINGS INDICATED.

6 (2) "THREATEN TO TAKE POSSESSION" MEANS USING WORDS OR
7 ACTIONS INTENDED TO CONVINCING A REASONABLE PERSON THAT THE PARK
8 OWNER INTENDS TO TAKE IMMINENT POSSESSION OF THE LEASED PREMISES IN
9 VIOLATION OF THIS SECTION.

10 (3) (I) "WILLFUL DIMINUTION OF SERVICES" MEANS
11 INTENTIONALLY INTERRUPTING OR CAUSING THE INTERRUPTION OF HEAT,
12 RUNNING WATER, HOT WATER, ELECTRICITY, OR GAS BY THE PARK OWNER FOR
13 THE PURPOSE OF FORCING A RESIDENT TO ABANDON THE PROPERTY.

14 (II) "WILLFUL DIMINUTION OF SERVICES" DOES NOT
15 INCLUDE A PARK OWNER CHOOSING NOT TO CONTINUE TO PAY FOR UTILITY
16 SERVICE FOR THE LEASED PREMISES AFTER A FINAL COURT ORDER AWARDING
17 POSSESSION OF THE LEASED PREMISES, IF THE PARK OWNER HAS PROVIDED
18 THE RESIDENT REASONABLE NOTICE OF THE OWNER'S INTENTION AND THE
19 OPPORTUNITY FOR THE RESIDENT TO OPEN AN ACCOUNT IN THE RESIDENT'S
20 NAME FOR THAT SERVICE.

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

28 (2) A PARK OWNER MAY TAKE POSSESSION OF LEASED PREMISES
29 FROM A RESIDENT OR RESIDENT HOLDING OVER ONLY:

30 (I) IN ACCORDANCE WITH A WARRANT OF RESTITUTION
31 ISSUED BY A COURT AND EXECUTED BY A SHERIFF OR CONSTABLE; OR

32 (II) IF THE RESIDENT HAS ABANDONED OR SURRENDERED
33 POSSESSION OF THE LEASED PREMISES.

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

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

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

8 ~~(III) RECOVER REASONABLE~~

9 (II) REASONABLE ATTORNEY'S FEES AND COSTS.

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

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

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is intended to
16 supersede the ruling of the Court of Appeals of Maryland in Nickens v. Mount Vernon
17 Realty Group, et al., 429 Md. 53 (2012) and modify any right to self-help eviction that
18 certain persons may possess in the context of residential foreclosures, tax sale
19 foreclosures, landlord-tenant actions, and mobile home park actions.

20 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
21 effect ~~October~~ June 1, 2013.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.