

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 1095
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, after the first “of” insert “altering a certain definition for purposes of certain provisions of law prohibiting nonjudicial actions to take possession of property;”; in line 9, after “arrear;” insert “altering the manner of giving a certain notice;”; in line 18, after “rent;” insert “establishing that a person awarded possession of property in a certain action takes possession subject to the terms of a certain security instrument;”; in line 20, after “lease;” insert “altering the period of time after which a certain rent is conclusively presumed to be extinguished if no demand or payment is made for the rent during that period; clarifying that certain prior provisions of law are repealed;”; and in line 21, after “measure;” insert “providing for the effective date of a certain provision of this Act;”.

On page 2, in line 1, after “Section” insert “7-113, 8-107,”.

AMENDMENT NO. 2

On page 2, after line 19, insert:

“7-113.

(a) (1) In this section the following words have the meanings indicated.

(2) “Party claiming the right to possession” means a person or successor to any person who:

(i) Does not have actual possession of a residential property;

and

(Over)

(ii) Has or claims to have a legal right to possession of the residential property:

1. By the terms of a contract or foreclosure sale;

2. UNDER A RESIDENTIAL LEASE OR SUBLEASE THAT HAS AN INITIAL TERM OF 99 YEARS RENEWABLE FOREVER AND THAT CREATES A LEASEHOLD ESTATE SUBJECT TO THE PAYMENT OF SEMIANNUAL INSTALLMENTS OF AN ANNUAL LEASE AMOUNT; or

[2.] 3. Under a court order, including a court order extinguishing a right of redemption.

(3) (i) “Protected resident” means an owner or former owner in actual possession of residential property.

(ii) “Protected resident” includes a grantee, tenant, subtenant, or other person in actual possession by, through, or under an owner or former owner of residential property.

(iii) “Protected resident” does not include a trespasser or squatter.

(4) “Residential property” means a building, structure, or portion of a building or structure that is designed principally and is intended for human habitation.

(5) “Threaten to take possession” means using words or actions intended to convince a reasonable person that a party claiming the right to possession intends to take imminent possession of residential property in violation of this section.

(6) “Willful diminution of services” means intentionally interrupting or causing the interruption of heat, running water, hot water, electricity, or gas by a party claiming the right to possession for the purpose of forcing a protected resident to abandon residential property.

(b) (1) Except as provided in paragraph (2) of this subsection, a party claiming the right to possession may not take possession or threaten to take possession of residential property from a protected resident by:

(i) Locking the resident out 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) (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 in accordance with a writ of possession issued by a court and executed by a sheriff or constable.

(ii) 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 may post on the front door of the residential property and mail by first-class mail addressed to “all occupants” at the address of the residential property a written notice in substantially the following form:

“IMPORTANT NOTICE ABOUT EVICTION

A person who claims the right to possess this property believes that this property is abandoned. If you are currently residing in the property, you must immediately contact:

Name

Address

Telephone

Date of this notice

If you do not contact the person listed above within 15 days after the date of this notice, the person claiming possession may consider the property abandoned and seek to secure the property, including changing the locks without a court order.”.

(2) The written notice required by this subsection shall be:

(i) A separate document; and

(ii) Printed in at least 12 point type.

(3) The outside of the envelope containing the mailed written notice required by this subsection shall state, on the address side, in bold, capital letters in at least 12 point type, the following: “Important notice to all occupants: eviction information enclosed; open immediately.”.

(d) (1) If in any proceeding the court finds that a party claiming the right to possession violated subsection (b) of this section, the protected resident may recover:

(i) Possession of the property, if no other person then resides in the property;

(ii) Actual damages; and

(iii) Reasonable attorney’s fees and costs.

(2) The remedies set forth in this subsection are not exclusive.

(e) This section does not apply if the parties are governed by Title 8, Subtitle 2, or Title 8A of this article.”.

AMENDMENT NO. 3

On page 4, in line 8, after “by” insert “FIRST CLASS MAIL AND BY”.

On page 7, in line 20, after “(C)” insert “(1)”; in lines 24 and 26, strike “(1)” and “(2)”, respectively, and substitute “(I)” and “(II)”, respectively; and after line 28, insert:

“(2) IF AT LEAST TWO GOOD FAITH EFFORTS TO SERVE THE LEASEHOLD TENANT UNDER PARAGRAPH (1) OF THIS SUBSECTION ON DIFFERENT DAYS HAVE NOT SUCCEEDED, THE PLAINTIFF MAY EFFECT SERVICE BY:

(I) FILING AN AFFIDAVIT WITH THE COURT DESCRIBING THE GOOD FAITH EFFORTS TO SERVE THE LEASEHOLD TENANT; AND

(II) 1. MAILING A COPY OF ALL THE DOCUMENTS REQUIRED TO BE SERVED BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND FIRST-CLASS MAIL TO THE LEASEHOLD TENANT’S LAST KNOWN ADDRESS AND, IF DIFFERENT, TO THE ADDRESS OF THE RESIDENTIAL PROPERTY SUBJECT TO THE GROUND LEASE; AND

2. POSTING A COPY OF ALL THE DOCUMENTS REQUIRED TO BE SERVED IN A CONSPICUOUS PLACE ON THE RESIDENTIAL PROPERTY SUBJECT TO THE GROUND LEASE.

(3) THE INDIVIDUAL MAKING SERVICE OF PROCESS UNDER THIS SUBSECTION SHALL FILE PROOF OF SERVICE WITH THE COURT IN ACCORDANCE WITH THE MARYLAND RULES.”.

AMENDMENT NO. 4

On page 5, in line 24, strike “\$300” and substitute “\$400”.

On page 6, in line 8, strike “\$150” and substitute “\$200”; and in line 9, strike “\$450” and substitute “\$500”.

AMENDMENT NO. 5

On page 7, before line 29, insert:

“(D) A PERSON AWARDED POSSESSION OF PROPERTY IN AN ACTION UNDER THIS SECTION FOR NONPAYMENT OF GROUND RENT UNDER A GROUND LEASE ON RESIDENTIAL PROPERTY THAT IS OR WAS USED, INTENDED TO BE USED, OR AUTHORIZED TO BE USED FOR FOUR OR FEWER DWELLING UNITS TAKES POSSESSION SUBJECT TO THE TERMS OF ANY SECURITY INSTRUMENT RECORDED BEFORE THE FILING OF THE ACTION FOR POSSESSION.”;

and in line 29, strike “(D)” and substitute “(E)”.

AMENDMENT NO. 6

On page 10 in lines 9 and 10, and on page 12 in lines 7 and 8, in each instance, strike “but may also be negotiated with the ground lease holder for a different amount. For information on redeeming” and substitute “AS FOLLOWS:”

(1) FOR A SUM EQUAL TO THE ANNUAL RENT RESERVED MULTIPLIED BY:

(I) 25, WHICH IS CAPITALIZATION AT 4 PERCENT, IF THE LEASE WAS EXECUTED FROM APRIL 8, 1884, TO APRIL 5, 1888, BOTH INCLUSIVE;

(II) 8.33, WHICH IS CAPITALIZATION AT 12 PERCENT, IF THE LEASE WAS OR IS CREATED AFTER JULY 1, 1982; OR

(III) 16.66, WHICH IS CAPITALIZATION AT 6 PERCENT, IF THE LEASE WAS CREATED AT ANY OTHER TIME;

(2) FOR A LESSER SUM IF SPECIFIED IN THE LEASE; OR

(3) FOR A SUM TO WHICH THE PARTIES MAY AGREE AT THE TIME OF REDEMPTION.

THE AMOUNT TO REDEEM YOUR GROUND LEASE IS _____ . IF YOU WISH TO REDEEM’.

AMENDMENT NO. 7

On page 12, after line 13, insert:

“SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Real Property

8–107.

If there is no demand or payment for more than [20] 7 consecutive years of any specific rent reserved out of a particular property or any part of a particular property under any form of lease, the rent conclusively is presumed to be extinguished and the landlord may not set up any claim for the rent or to the reversion in the property out of which it issued. The landlord also may not institute any suit, action, or proceeding to recover the rent or the property. IN ORDER TO PROVE A DEMAND FOR PAYMENT OF A GROUND RENT, THE LANDLORD SHALL SHOW THAT THE LANDLORD HAS MAILED A BILL TO THE LAST KNOWN ADDRESS OF THE LEASEHOLD TENANT AND TO THE ADDRESS OF THE PROPERTY SUBJECT TO THE GROUND LEASE IN ACCORDANCE WITH § 14–116.1 OF THIS ARTICLE. However, if the landlord is under

any legal disability when the period of [20] 7 years of nondemand or nonpayment expires, the landlord has two years after the removal of the disability within which to assert the landlord's rights.

SECTION 4. AND BE IT FURTHER ENACTED, That Section(s) 8-402.2(d) and 8-402.3 of Article – Real Property of the Annotated Code of Maryland (2003 Replacement Volume and 2006 Supplement) as in effect on June 30, 2007, be repealed.

SECTION 5. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect June 1, 2015.”;

in line 14, strike “3.” and substitute “6.”; and in the same line, after “That” insert “, except as provided in Section 5 of this Act.”.