

HOUSE BILL 408

N1

4r2310
CF SB 268

By: **Delegates S. Robinson and Barkley**
Introduced and read first time: January 24, 2014
Assigned to: Environmental Matters

Committee Report: Favorable
House action: Adopted
Read second time: March 3, 2014

CHAPTER _____

1 AN ACT concerning

2 **Real Property – Breach of Lease – Notice Requirements**

3 FOR the purpose of authorizing the parties to a nonresidential lease to agree in
4 writing to lengthen, shorten, or waive certain periods of notice that the tenant is
5 in violation of the lease and the landlord desires to repossess the leased
6 premises; and generally relating to nonresidential leases.

7 BY repealing and reenacting, with amendments,
8 Article – Real Property
9 Section 8–402.1
10 Annotated Code of Maryland
11 (2010 Replacement Volume and 2013 Supplement)

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

14 **Article – Real Property**

15 8–402.1.

16 (a) (1) (i) [Where] **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II)**
17 **OF THIS PARAGRAPH, WHERE** an unexpired lease for a stated term provides that the
18 landlord may repossess the premises prior to the expiration of the stated term if the
19 tenant breaches the lease, the landlord may make complaint in writing to the District
20 Court of the county where the premises is located if:

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 1. The tenant breaches the lease;
- 2 2. A. The landlord has given the tenant 30 days'
3 written notice that the tenant is in violation of the lease and the landlord desires to
4 repossess the leased premises; or
- 5 B. The breach of the lease involves behavior by a tenant
6 or a person who is on the property with the tenant's consent, which demonstrates a
7 clear and imminent danger of the tenant or person doing serious harm to themselves,
8 other tenants, the landlord, the landlord's property or representatives, or any other
9 person on the property and the landlord has given the tenant or person in possession
10 14 days' written notice that the tenant or person in possession is in violation of the
11 lease and the landlord desires to repossess the leased premises; and
- 12 3. The tenant or person in actual possession of the
13 premises refuses to comply.

14 **(II) THE PARTIES TO A NONRESIDENTIAL LEASE MAY AGREE**
15 **IN WRITING TO LENGTHEN, SHORTEN, OR WAIVE THE PERIODS OF NOTICE**
16 **PROVIDED FOR IN SUBPARAGRAPH (I)2 OF THIS PARAGRAPH.**

17 [(ii)] **(III)** The court shall summons immediately the tenant or
18 person in possession to appear before the court on a day stated in the summons to
19 show cause, if any, why restitution of the possession of the leased premises should not
20 be made to the landlord.

21 (2) (i) If, for any reason, the tenant or person in actual possession
22 cannot be found, the constable or sheriff shall affix an attested copy of the summons
23 conspicuously on the property.

24 (ii) After notice is sent to the tenant or person in possession by
25 first-class mail, the affixing of the summons on the property shall be conclusively
26 presumed to be a sufficient service to support restitution.

27 (3) If either of the parties fails to appear before the court on the day
28 stated in the summons, the court may continue the case for not less than six nor more
29 than 10 days and notify the parties of the continuance.

30 (b) (1) If the court determines that the tenant breached the terms of the
31 lease and that the breach was substantial and warrants an eviction, the court shall
32 give judgment for the restitution of the possession of the premises and issue its
33 warrant to the sheriff or a constable commanding the tenant to deliver possession to
34 the landlord in as full and ample manner as the landlord was possessed of the same at
35 the time when the lease was entered into. The court shall give judgment for costs
36 against the tenant or person in possession.

1 (2) Either party may appeal to the circuit court for the county, within
2 ten days from entry of the judgment. If the tenant (i) files with the District Court an
3 affidavit that the appeal is not taken for delay; (ii) files sufficient bond with one or
4 more securities conditioned upon diligent prosecution of the appeal; (iii) pays all rent
5 in arrears, all court costs in the case; and (iv) pays all losses or damages which the
6 landlord may suffer by reason of the tenant's holding over, the tenant or person in
7 possession of the premises may retain possession until the determination of the
8 appeal. Upon application of either party, the court shall set a day for the hearing of
9 the appeal not less than five nor more than 15 days after the application, and notice of
10 the order for a hearing shall be served on the other party or that party's counsel at
11 least five days before the hearing. If the judgment of the District Court is in favor of
12 the landlord, a warrant shall be issued by the court which hears the appeal to the
13 sheriff, who shall execute the warrant.

14 (c) (1) Acceptance of any payment after notice but before eviction shall
15 not operate as a waiver of any notice of breach of lease or any judgment for possession
16 unless the parties specifically otherwise agree in writing.

17 (2) Any payment accepted shall be first applied to the rent or the
18 equivalent of rent apportioned to the date that the landlord actually recovers
19 possession of the premises, then to court costs, including court awarded damages and
20 legal fees and then to any loss of rent caused by the breach of lease.

21 (3) Any payment which is accepted in excess of the rent referred to in
22 paragraph (2) of this subsection shall not bear interest but will be returned to the
23 tenant in the same manner as security deposits as defined under § 8-203 of this title
24 but shall not be subject to the penalties of that section.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2014.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.