

SENATE BILL 268

N1

4r1844
CF 4r2310

By: **Senator Astle**

Introduced and read first time: January 17, 2014

Assigned to: Judicial Proceedings

A BILL ENTITLED

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:

21 1. The tenant breaches the lease;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 2. A. The landlord has given the tenant 30 days'
2 written notice that the tenant is in violation of the lease and the landlord desires to
3 repossess the leased premises; or

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

11 3. The tenant or person in actual possession of the
12 premises refuses to comply.

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

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

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

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

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

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

36 (2) Either party may appeal to the circuit court for the county, within
37 ten days from entry of the judgment. If the tenant (i) files with the District Court an
38 affidavit that the appeal is not taken for delay; (ii) files sufficient bond with one or

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

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

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

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

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