

HOUSE BILL 1206

N1, D3

7lr2982
CF SB 377

By: **Delegates McComas, Buckel, Malone, Miele, West, and B. Wilson**

Introduced and read first time: February 9, 2017

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Wrongful Detainer Actions – Counterclaims and Cross-Claims**

3 FOR the purpose of repealing a certain prohibition on filing a counterclaim or cross-claim
4 in a wrongful detainer action; authorizing a counterclaim or cross-claim to be filed
5 in a wrongful detainer action; and generally relating to wrongful detainer actions.

6 BY repealing and reenacting, with amendments,
7 Article – Real Property
8 Section 14–132
9 Annotated Code of Maryland
10 (2015 Replacement Volume and 2016 Supplement)

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

Article – Real Property

13 14–132.

15 (a) In this section, “wrongful detainer” means to hold possession of real property
16 without the right of possession.

17 (b) This section does not apply if:

18 (1) The person in actual possession of the property has been granted
19 possession under a court order;

20 (2) A remedy is available under Title 8 of this article; or

21 (3) Any other exclusive means to recover possession is provided by statute
22 or rule.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (c) A person may not hold possession of property unless the person is entitled to
2 possession of the property under the law.

3 (d) (1) If a person violates subsection (c) of this section, a person claiming
4 possession may make complaint in writing to the District Court of the county in which the
5 property is located.

6 (2) On receipt of a complaint under paragraph (1) of this subsection, the
7 court shall summons immediately the person in possession to appear before the court on
8 the day specified in the summons to show cause, if any, why restitution of the possession of
9 the property to the person filing the complaint should not be made.

10 (3) If, for any reason, the person in actual possession cannot be found, the
11 person authorized to serve process by the Maryland Rules shall affix an attested copy of
12 the summons conspicuously on the property.

13 (4) If notice of the summons is sent to the person in possession by
14 first-class mail, the affixing of the summons in accordance with paragraph (3) of this
15 subsection shall constitute sufficient service to support restitution of possession.

16 (e) A counterclaim or cross-claim may [not] be filed in an action brought under
17 this section.

18 (f) (1) If the court determines that the complainant is legally entitled to
19 possession, the court shall:

20 (i) Give judgment for restitution of the possession of the property to
21 the complainant; and

22 (ii) Issue its warrant to the sheriff or constable commanding the
23 sheriff or constable to deliver possession to the complainant.

24 (2) The court may also give judgment in favor of the complainant for
25 damages due to the wrongful detainer and for court costs and attorney fees if:

26 (i) The complainant claimed damages in the complaint; and

27 (ii) The court finds that:

28 1. The person in actual possession was personally served
29 with the summons; or

30 2. There was service of process or submission to the
31 jurisdiction of the court as would support a judgment in contract or tort.

1 (3) A person in actual possession who is not personally served with a
2 summons is not subject to the personal jurisdiction of the District Court if the person
3 appears in response to the summons and prior to the time that evidence is taken by the
4 court and asserts that the appearance is only for the purpose of defending an in rem action.

5 (g) (1) Not later than 10 days from the entry of the judgment of the District
6 Court, either party may appeal to the circuit court for the county in which the property is
7 located.

8 (2) The person in actual possession of the property may retain possession
9 until the determination of the appeal if the person:

10 (i) Files with the court an affidavit that the appeal is not taken for
11 delay; and

12 (ii) 1. Files sufficient bond with one or more securities
13 conditioned on diligent prosecution of the appeal; or

14 2. Pays to the complainant or into the appellate court:

15 A. The fair rental value of the property for the entire period
16 of possession up to the date of judgment;

17 B. All court costs in the case;

18 C. All losses or damages other than the fair rental value of
19 the property up to the day of judgment that the court determined to be due because of the
20 detention of possession; and

21 D. The fair rental value of the property during the pendency
22 of the appeal.

23 (3) On application of either party, the court shall set a hearing date for the
24 appeal that is not less than 5 days or more than 15 days after the application for appeal.

25 (4) Notice of the order for a hearing shall be served on the parties or the
26 parties' counsels not less than 5 days before the hearing.

27 (h) If the judgment of the circuit court shall be in favor of the person claiming
28 possession, a warrant shall be issued by the court to the sheriff, who shall proceed
29 immediately to execute the warrant.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2017.