

HB0523/262919/1

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL 523

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “**Baltimore City**” and substitute “**Landlord and Tenant**”; in line 4, after “landlord” insert “, or a landlord’s duly authorized agent”; in line 5, strike “in Baltimore City” and substitute “to submit certain documents demonstrating a property”; in the same line, strike “to be” and substitute “is”; in line 7, after “laws;” insert “specifying that a certain provisional or temporary license is insufficient to satisfy certain filing requirements;”; in line 10, after “requirements;” insert “prohibiting a court from entering a judgment in favor of a landlord who fails to prove that a property is in compliance with certain local license requirements; requiring a landlord or a landlord’s duly authorized agent, at the time of filing a certain compliant in an action for repossession for failure to pay rent in Baltimore City, to submit certain documents demonstrating a property is in compliance with certain local license requirements and certain lead-based paint abatement laws; specifying that a certain provisional or temporary license is insufficient to satisfy certain filing requirements in Baltimore City; providing that a landlord has the burden of proving, by a certain standard of evidence, that a property is in compliance with certain local license requirements in Baltimore City; authorizing a landlord to provide an electronic copy of a license as proof of compliance with certain local license requirements in Baltimore City;”; in line 12, after “requirements” insert “in Baltimore City; providing for a delayed effective date”; in line 13, strike “in Baltimore City”; and after line 13, insert:

“BY repealing and reenacting, without amendments,

Article - Real Property

Section 8-401(a)

Annotated Code of Maryland

(2015 Replacement Volume and 2020 Supplement)

(Over)

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BY repealing and reenacting, with amendments,
Article - Real Property
Section 8-401(b) and (c)
Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)".

AMENDMENT NO. 2

On page 1, after line 20 insert:

“Article – Real Property

8-401.

(a) Whenever the tenant or tenants fail to pay the rent when due and payable, it shall be lawful for the landlord to have again and repossess the premises.

(b) (1) Whenever any landlord shall desire to repossess any premises to which the landlord is entitled under the provisions of subsection (a) of this section, the landlord or the landlord’s duly qualified agent or attorney shall file the landlord’s written complaint under oath or affirmation, in the District Court of the county wherein the property is situated:

(i) Describing in general terms the property sought to be repossessed;

(ii) Setting forth the name of each tenant to whom the property is rented or any assignee or subtenant;

(iii) Stating the amount of rent and any late fees due and unpaid, less the amount of any utility bills, fees, or security deposits paid by a tenant under § 7-309 of the Public Utilities Article;

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(iv) Requesting to repossess the premises and, if requested by the landlord, a judgment for the amount of rent due, costs, and any late fees, less the amount of any utility bills, fees, or security deposits paid by a tenant under § 7–309 of the Public Utilities Article;

(v) If applicable, stating that, to the best of the landlord’s knowledge, the tenant is deceased, intestate, and without next of kin; and

(vi) If the property to be repossessed is an affected property as defined in § 6–801 of the Environment Article, stating that the landlord has registered the affected property as required under § 6–811 of the Environment Article and renewed the registration as required under § 6–812 of the Environment Article and:

1. A. If the current tenant moved into the property on or after February 24, 1996, stating the inspection certificate number for the inspection conducted for the current tenancy as required under § 6–815(c) of the Environment Article; or

B. On or after February 24, 2006, stating the inspection certificate number for the inspection conducted for the current tenancy as required under § 6–815(c), § 6–817(b), or § 6–819(f) of the Environment Article; or

2. Stating that the owner is unable to provide an inspection certificate number because:

A. The owner has requested that the tenant allow the owner access to the property to perform the work required under Title 6, Subtitle 8 of the Environment Article;

B. The owner has offered to relocate the tenant in order to allow the owner to perform work if the work will disturb the paint on the interior

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surfaces of the property and to pay the reasonable expenses the tenant would incur directly related to the relocation; and

C. The tenant has refused to allow access to the owner or refused to vacate the property in order for the owner to perform the required work.

(2) (I) AT THE TIME OF FILING A WRITTEN COMPLAINT UNDER THIS SUBSECTION, THE LANDLORD OR THE LANDLORD'S DULY AUTHORIZED AGENT SHALL SUBMIT DOCUMENTS TO THE DISTRICT COURT DEMONSTRATING THAT THE RENTAL PROPERTY IS:

1. LICENSED WITH THE COUNTY IN COMPLIANCE WITH ALL APPLICABLE RENTAL PROPERTY LICENSING REQUIREMENTS; AND

2. IN COMPLIANCE WITH ALL REGISTRATION REQUIREMENTS UNDER TITLE 6, SUBTITLE 8, PART III OF THE ENVIRONMENT ARTICLE.

(II) A PROVISIONAL OR TEMPORARY LICENSE IS INSUFFICIENT TO SATISFY THE REQUIREMENTS UNDER SUBPARAGRAPH (I)1 OF THIS PARAGRAPH.

[(2)] (3) For the purpose of the court's determination under subsection (c) of this section the landlord shall also specify the amount of rent due for each rental period under the lease, the day that the rent is due for each rental period, and any late fees for overdue rent payments.

[(3)] (4) The District Court shall issue its summons, directed to any constable or sheriff of the county entitled to serve process, and ordering the constable or sheriff to notify the tenant, assignee, or subtenant by first-class mail:

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(i) To appear before the District Court at the trial to be held on the fifth day after the filing of the complaint; and

(ii) To answer the landlord's complaint to show cause why the demand of the landlord should not be granted.

~~[(4)]~~ **(5)** (i) The constable or sheriff shall proceed to serve the summons upon the tenant, assignee, or subtenant or their known or authorized agent as follows:

1. If personal service is requested and any of the persons whom the sheriff shall serve is found on the property, the sheriff shall serve any such persons; or

2. If personal service is requested and none of the persons whom the sheriff is directed to serve shall be found on the property and, in all cases where personal service is not requested, the constable or sheriff shall affix an attested copy of the summons conspicuously upon the property.

(ii) The affixing of the summons upon the property after due notification to the tenant, assignee, or subtenant by first-class mail shall conclusively be presumed to be a sufficient service to all persons to support the entry of a default judgment for possession of the premises, together with court costs, in favor of the landlord, but it shall not be sufficient service to support a default judgment in favor of the landlord for the amount of rent due.

~~[(5)]~~ **(6)** Notwithstanding the provisions of paragraphs (1) through [(4)] (5) of this subsection:

(i) In an action to repossess nonresidential property under this section, service of process on a tenant:

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1. Shall be directed to the sheriff of the appropriate county or municipality; and

2. On plaintiff's request, may be directed to any person authorized under the Maryland Rules to serve process; and

(ii) In Wicomico County, in an action to repossess any premises under this section, service of process on a tenant may be directed to any person authorized under the Maryland Rules to serve process.

~~[(6)]~~ (7) (i) Notwithstanding the provisions of paragraphs ~~[(3)]~~ (4) through ~~[(5)]~~ (6) of this subsection, if the landlord certifies to the court in the written complaint required under paragraph (1) of this subsection that, to the best of the landlord's knowledge, the tenant is deceased, intestate, and without next of kin, the District Court shall issue its summons, directed to any constable or sheriff of the county entitled to serve process, and ordering the constable or sheriff to notify the occupant of the premises or the next of kin of the deceased tenant, if known, by personal service:

1. To appear before the District Court at the trial to be held on the fifth day after the filing of the complaint; and

2. To answer the landlord's complaint to show cause why the demand of the landlord should not be granted.

(ii) 1. The constable or sheriff shall proceed to serve the summons upon the occupant of the premises or the next of kin of the deceased tenant, if known, as follows:

A. If any of the persons whom the sheriff is directed to serve are found on the property or at another known address, the sheriff shall serve any such persons; or

B. If none of the persons whom the sheriff is directed to serve are found on the property or at another known address, the constable or sheriff shall affix an attested copy of the summons conspicuously upon the property.

2. The affixing of the summons upon the property shall conclusively be presumed to be a sufficient service to all persons to support the entry of a default judgment for possession of the premises, together with court costs, in favor of the landlord, but it shall not be sufficient service to support a default judgment in favor of the landlord for the amount of rent due.

(c) (1) If, at the trial on the fifth day indicated in subsection (b) of this section, the court is satisfied that the interests of justice will be better served by an adjournment to enable either party to procure their necessary witnesses, the court may adjourn the trial for a period not exceeding 1 day, except with the consent of all parties, the trial may be adjourned for a longer period of time.

(2) (i) [The information required under subsection (b)(1)(vi) of this section may not be an issue of fact in a trial under this section.]

1. DURING TRIAL, THE LANDLORD SHALL HAVE THE BURDEN OF PROVING, BY A PREPONDERANCE OF THE EVIDENCE, THAT THE REQUIREMENTS UNDER SUBSECTION (B)(2)(I)1 OF THIS SECTION HAVE BEEN MET.

2. IF THE LANDLORD FAILS TO PROVIDE PROOF UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE COURT MAY NOT ENTER A JUDGMENT IN FAVOR OF THE LANDLORD.

3. THE LANDLORD MAY PRESENT AN ELECTRONIC COPY OF THE LICENSE TO SATISFY THE BURDEN OF PROOF UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH.

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(ii) If, when the trial occurs, it appears to the satisfaction of the court, that the rent, or any part of the rent and late fees are actually due and unpaid, the court shall determine the amount of rent and late fees due as of the date the complaint was filed less the amount of any utility bills, fees, or security deposits paid by a tenant under § 7–309 of the Public Utilities Article, if the trial occurs within the time specified by subsection [(b)(3)] (B)(4) of this section.

(iii) 1. If the trial does not occur within the time specified in subsection [(b)(3)(i)] (B)(4)(I) of this section and the tenant has not become current since the filing of the complaint, the court, if the complaint so requests, shall enter a judgment in favor of the landlord for possession of the premises and determine the rent and late fees due as of the trial date.

2. The determination of rent and late fees shall include the following:

A. Rent claimed in the complaint;

B. Rent accruing after the date of the filing of the complaint;

C. Late fees accruing in or prior to the month in which the complaint was filed; and

D. Credit for payments of rent and late fees and other fees, utility bills, or security deposits paid by a tenant under § 7–309 of the Public Utilities Article after the complaint was filed.

(iv) In the case of a residential tenancy, the court may also give judgment in favor of the landlord for the amount of rent and late fees determined to be

due together with costs of the suit if the court finds that the residential tenant was personally served with a summons.

(v) In the case of a nonresidential tenancy, if the court finds that there was such service of process or submission to the jurisdiction of the court as would support a judgment in contract or tort, the court may also give judgment in favor of the landlord for:

1. The amount of rent and late fees determined to be due;
2. Costs of the suit; and
3. Reasonable attorney's fees, if the lease agreement authorizes the landlord to recover attorney's fees.

(vi) A nonresidential tenant who was not personally served with a summons shall not be subject to personal jurisdiction of the court if that tenant asserts that the appearance is for the purpose of defending an in rem action prior to the time that evidence is taken by the court.

(3) The court, when entering the judgment, shall also order that possession of the premises be given to the landlord, or the landlord's agent or attorney, within 4 days after the trial.

(4) The court may, upon presentation of a certificate signed by a physician certifying that surrender of the premises within this 4-day period would endanger the health or life of the tenant or any other occupant of the premises, extend the time for surrender of the premises as justice may require but not more than 15 days after the trial.

(5) However, if the tenant, or someone for the tenant, at the trial, or adjournment of the trial, tenders to the landlord the rent and late fees determined by

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the court to be due and unpaid, together with the costs of the suit, the complaint against the tenant shall be entered as being satisfied.”.

AMENDMENT NO. 3

On page 2, in line 18, strike “MUST BE IN” and substitute “OR THE LESSOR’S DULY AUTHORIZED AGENT SHALL SUBMIT DOCUMENTS TO THE DISTRICT COURT IN BALTIMORE CITY DEMONSTRATING THAT THE RENTAL PROPERTY IS IN”; and in line 20, after the period, insert “A PROVISIONAL OR TEMPORARY LICENSE IS INSUFFICIENT TO SATISFY THE REQUIREMENTS OF ARTICLE 13, § 5-4 OF THE BALTIMORE CITY CODE.”.

On page 3, in line 20, strike “October 1, 2021” and substitute “January 1, 2022”.