

# HOUSE BILL 524

N1, L1

1lr1445

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By: **Delegate Lehman**

Introduced and read first time: January 15, 2021

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Anne Arundel County and Prince George’s County – Repossession for Failure to**  
3 **Pay Rent – Rental Property License Information**

4 FOR the purpose of requiring a landlord or a landlord’s duly authorized agent, at the time  
5 of filing a complaint for repossession of rental property for failure to pay rent in Anne  
6 Arundel County or Prince George’s County, to submit for inspection by the clerk of  
7 the District Court certain records demonstrating that the property is compliant with  
8 certain local rental property licensing requirements; specifying that a certain  
9 provisional or temporary license is insufficient to satisfy certain filing requirements;  
10 establishing that a landlord has the burden of proving at trial, by a certain standard  
11 of evidence, that a property is in compliance with certain local rental property  
12 licensing requirements; providing for the application of this Act; and generally  
13 relating to actions for repossession for failure to pay rent in Anne Arundel County  
14 and Prince George’s County.

15 BY repealing and reenacting, without amendments,  
16 Article – Real Property  
17 Section 8–401(a)  
18 Annotated Code of Maryland  
19 (2015 Replacement Volume and 2020 Supplement)

20 BY repealing and reenacting, with amendments,  
21 Article – Real Property  
22 Section 8–401(b) and (c)  
23 Annotated Code of Maryland  
24 (2015 Replacement Volume and 2020 Supplement)

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

27 **Article – Real Property**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 8-401.

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

4 (b) (1) [Whenever] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
5 **SUBSECTION, WHENEVER** any landlord shall desire to repossess any premises to which  
6 the landlord is entitled under the provisions of subsection (a) of this section, the landlord  
7 or the landlord's duly qualified agent or attorney shall file the landlord's written complaint  
8 under oath or affirmation, in the District Court of the county wherein the property is  
9 situated:

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

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

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

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

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

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

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

31 B. On or after February 24, 2006, stating the inspection  
32 certificate number for the inspection conducted for the current tenancy as required under  
33 § 6-815(c), § 6-817(b), or § 6-819(f) of the Environment Article; or

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

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

4           B.     The owner has offered to relocate the tenant in order to  
5 allow the owner to perform work if the work will disturb the paint on the interior surfaces  
6 of the property and to pay the reasonable expenses the tenant would incur directly related  
7 to the relocation; and

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

10           **(2) (I) THIS PARAGRAPH APPLIES ONLY IN ANNE ARUNDEL**  
11 **COUNTY AND PRINCE GEORGE'S COUNTY.**

12           **(II) AT THE TIME OF FILING A WRITTEN COMPLAINT UNDER**  
13 **THIS SUBSECTION, THE LANDLORD OR THE LANDLORD'S DULY AUTHORIZED AGENT**  
14 **SHALL SUBMIT FOR INSPECTION BY THE CLERK OF THE DISTRICT COURT RECORDS**  
15 **DEMONSTRATING THAT THE PROPERTY IS LICENSED WITH THE COUNTY IN**  
16 **COMPLIANCE WITH ALL APPLICABLE RENTAL PROPERTY LICENSING**  
17 **REQUIREMENTS.**

18           **(III) A PROVISIONAL OR TEMPORARY LICENSE IS INSUFFICIENT**  
19 **TO SATISFY THE REQUIREMENT OF THIS PARAGRAPH.**

20           **[(2)] (3)**     For the purpose of the court's determination under subsection (c)  
21 of this section the landlord shall also specify the amount of rent due for each rental period  
22 under the lease, the day that the rent is due for each rental period, and any late fees for  
23 overdue rent payments.

24           **[(3)] (4)**     The District Court shall issue its summons, directed to any  
25 constable or sheriff of the county entitled to serve process, and ordering the constable or  
26 sheriff to notify the tenant, assignee, or subtenant by first-class mail:

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

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

31           **[(4)] (5)**     (i)     The constable or sheriff shall proceed to serve the  
32 summons upon the tenant, assignee, or subtenant or their known or authorized agent as  
33 follows:

34           1.     If personal service is requested and any of the persons

1 whom the sheriff shall serve is found on the property, the sheriff shall serve any such  
2 persons; or

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

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

13                   **[(5)] (6)** Notwithstanding the provisions of paragraphs (1) through **[(4)]**  
14 **(5)** of this subsection:

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

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

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

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

24                   **[(6)] (7)** (i) Notwithstanding the provisions of paragraphs **[(3)] (4)**  
25 through **[(5)] (6)** of this subsection, if the landlord certifies to the court in the written  
26 complaint required under paragraph (1) of this subsection that, to the best of the landlord's  
27 knowledge, the tenant is deceased, intestate, and without next of kin, the District Court  
28 shall issue its summons, directed to any constable or sheriff of the county entitled to serve  
29 process, and ordering the constable or sheriff to notify the occupant of the premises or the  
30 next of kin of the deceased tenant, if known, by personal service:

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

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

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

1 known, as follows:

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

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

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

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

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

20                               **(II) IF A LANDLORD IS REQUIRED TO PROVIDE EVIDENCE OF**  
21 **RENTAL PROPERTY LICENSING UNDER SUBSECTION (B)(2) OF THIS SECTION, AT**  
22 **TRIAL THE LANDLORD HAS THE BURDEN OF PROVING BY A PREPONDERANCE OF THE**  
23 **EVIDENCE THAT THE PROPERTY IS LICENSED WITH THE COUNTY IN COMPLIANCE**  
24 **WITH ALL APPLICABLE RENTAL PROPERTY LICENSING REQUIREMENTS.**

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

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

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

- 1                   A.     Rent claimed in the complaint;
- 2                   B.     Rent accruing after the date of the filing of the complaint;
- 3                   C.     Late fees accruing in or prior to the month in which the  
4 complaint was filed; and
- 5                   D.     Credit for payments of rent and late fees and other fees,  
6 utility bills, or security deposits paid by a tenant under § 7–309 of the Public Utilities  
7 Article after the complaint was filed.

8                   [(iv)] (V)     In the case of a residential tenancy, the court may also give  
9 judgment in favor of the landlord for the amount of rent and late fees determined to be due  
10 together with costs of the suit if the court finds that the residential tenant was personally  
11 served with a summons.

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

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

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

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

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

31                   (5)     However, if the tenant, or someone for the tenant, at the trial, or  
32 adjournment of the trial, tenders to the landlord the rent and late fees determined by the  
33 court to be due and unpaid, together with the costs of the suit, the complaint against the  
34 tenant shall be entered as being satisfied.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2021.