

# SENATE BILL 328

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11r0740

(PRE-FILED)

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By: **Senator Reilly**

Requested: September 25, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Anne Arundel County – Landlord and Tenant – Procedures for Repossession for**  
3 **Failure to Pay Rent**

4 FOR the purpose of authorizing a landlord in Anne Arundel County to repossess property  
5 in a certain manner for the failure of a tenant to pay rent under certain  
6 circumstances; requiring the landlord to provide a certain notice to a certain tenant  
7 in a certain manner; establishing a certain rebuttable presumption; requiring a  
8 sheriff to notify the District Court if the sheriff reasonably believes certain notice  
9 has not been provided and prohibiting the sheriff from executing the warrant of  
10 restitution under certain circumstances; requiring the District Court to vacate a  
11 certain warrant of execution under certain circumstances; establishing that personal  
12 property remaining at the time a certain warrant of restitution is executed is deemed  
13 abandoned; establishing that the landlord or a person acting on the landlord's behalf  
14 may not be liable for loss or damage to certain abandoned property; authorizing a  
15 landlord to dispose of certain abandoned property in a certain manner; prohibiting  
16 certain abandoned property from being placed in a public right-of-way or on any  
17 public property; establishing that this Act does not restrict the authority of Anne  
18 Arundel County to enact certain legislation; making stylistic changes; providing for  
19 the application of this Act; and generally relating to repossession for failure to pay  
20 rent in Anne Arundel County.

21 BY repealing and reenacting, with amendments,  
22 Article – Real Property  
23 Section 8–401(d)  
24 Annotated Code of Maryland  
25 (2015 Replacement Volume and 2020 Supplement)

26 BY adding to  
27 Article – Real Property  
28 Section 8–401(d–1)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2015 Replacement Volume and 2020 Supplement)

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

5 **Article – Real Property**

6 8–401.

7 (d) (1) (i) [Subject] **EXCEPT AS PROVIDED IN SUBSECTION (D–1) OF**  
8 **THIS SECTION AND SUBJECT** to the provisions of paragraph (2) of this subsection, if  
9 judgment is given in favor of the landlord, and the tenant fails to comply with the  
10 requirements of the order within 4 days, the court shall, at any time after the expiration of  
11 the 4 days, issue its warrant, directed to any official of the county entitled to serve process,  
12 ordering the official to cause the landlord to have again and repossess the property by  
13 putting the landlord [(or the landlord’s duly qualified agent or attorney for the landlord’s  
14 benefit)] in possession thereof, and for that purpose to remove from the property, by force  
15 if necessary, all the furniture, implements, tools, goods, effects or other [chattels]  
16 **PERSONAL PROPERTY** of every description whatsoever belonging to the tenant, or to any  
17 person claiming or holding by or under said tenant.

18 (ii) If the landlord does not order a warrant of restitution within  
19 [sixty] **60** days from the date of judgment or from the expiration date of any stay of  
20 execution, whichever shall be the later:

21 1. The judgment for possession shall be stricken; and

22 2. The judgment shall be applied to the number of judgments  
23 necessary to foreclose a tenant’s right to redemption of the leased premises as established  
24 in subsection (e)(2) of this section unless the court in its discretion determines that the  
25 judgment may not apply for purposes of subsection (e)(2) of this section.

26 (iii) If the landlord orders a warrant of restitution but takes no action  
27 on the warrant within 60 days from the later of the date the court issues the order for the  
28 warrant or the date as otherwise extended by the court:

29 1. The warrant of restitution shall expire and the judgment  
30 for possession shall be stricken; and

31 2. The judgment shall be applied to the number of judgments  
32 necessary to foreclose a tenant’s right to redemption of the leased premises as established  
33 in subsection (e)(2) of this section unless the court in its discretion determines that the  
34 judgment may not apply for purposes of subsection (e)(2) of this section.

1           (2)   (i)    The administrative judge of any district may stay the execution  
2 of a warrant of restitution of a residential property, from day to day, in the event of extreme  
3 weather conditions.

4           (ii)   When a stay has been granted under this paragraph, the  
5 execution of the warrant of restitution for which the stay has been granted shall be given  
6 priority and completed within 3 days after the extreme weather conditions cease.

7           **(D-1) (1)   THIS SUBSECTION APPLIES ONLY IN ANNE ARUNDEL COUNTY.**

8           **(2)   (i)    SUBJECT TO THE PROVISIONS OF SUBSECTION (D)(1)(II)**  
9 **AND (2) OF THIS SECTION, IF A JUDGMENT IS ENTERED IN FAVOR OF THE LANDLORD,**  
10 **THE LANDLORD, THE LANDLORD'S DULY QUALIFIED AGENT, OR THE LANDLORD'S**  
11 **ATTORNEY MAY PROVIDE FOR REPOSSESSION OF THE PROPERTY BY NOTIFYING THE**  
12 **TENANT OF THE INTENDED REPOSSESSION IN WRITING:**

13                   1.    **SENT BY FIRST-CLASS MAIL WITH CERTIFICATE OF**  
14 **MAILING AT LEAST 14 DAYS BEFORE THE INTENDED DATE OF REPOSSESSION; AND**

15                   2.    **POSTED ON THE FRONT DOOR OF THE LEASED**  
16 **PREMISES AT LEAST 7 DAYS BEFORE THE INTENDED DATE OF REPOSSESSION.**

17                   **(ii)   THE NOTICE REQUIRED UNDER SUBPARAGRAPH (I) OF THIS**  
18 **PARAGRAPH SHALL INCLUDE:**

19                   1.    **THE DISTRICT COURT SUMMARY EJECTMENT CASE**  
20 **NUMBER;**

21                   2.    **THE TENANT'S NAME AS STATED IN THE LEASE OR**  
22 **OTHERWISE AGREED TO BY THE LANDLORD;**

23                   3.    **THE ADDRESS OF THE LEASED PREMISES;**

24                   4.    **THE DATE ON WHICH THE WARRANT OF RESTITUTION**  
25 **WAS ORDERED BY THE DISTRICT COURT;**

26                   5.    **THE DATE OF THE EVICTION;**

27                   6.    **A STATEMENT THAT THE REPOSSESSION MAY OCCUR**  
28 **UNLESS THE TENANT:**

29                   A.   **RETURNS CONTROL OF THE LEASED PREMISES TO**  
30 **THE LANDLORD; OR**

1                   **B. EXERCISES THE RIGHT TO REDEMPTION UNDER**  
2 **SUBSECTION (E) OF THIS SECTION IF AVAILABLE;**

3                   **7. A STATEMENT THAT IF THE REPOSSESSION OCCURS,**  
4 **ALL PROPERTY REMAINING IN THE LEASED PREMISES WILL BE CONSIDERED**  
5 **ABANDONED AND MAY BE DISPOSED OF ON EXECUTION OF THE WARRANT OF**  
6 **RESTITUTION; AND**

7                   **8. A STATEMENT THAT THE NOTICE IS THE FINAL**  
8 **NOTICE TO THE TENANT OF THE INTENDED REPOSSESSION, EVEN IF THE**  
9 **REPOSSESSION IS STAYED UNDER SUBSECTION (D)(2) OF THIS SECTION.**

10                   **(III) THERE IS A REBUTTABLE PRESUMPTION THAT THE TENANT**  
11 **WAS NOTIFIED AS REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IF**  
12 **THE LANDLORD PROVIDES:**

13                   **1. THE CERTIFICATE OF MAILING; AND**

14                   **2. A SIGNED AFFIDAVIT OF THE PERSON WHO POSTED**  
15 **THE NOTICE ON THE FRONT DOOR OF THE LEASED PREMISES.**

16                   **(3) (I) IF THE SHERIFF REASONABLY BELIEVES THAT THE**  
17 **LANDLORD HAS NOT PROVIDED THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF**  
18 **THIS SUBSECTION, THE SHERIFF:**

19                   **1. SHALL NOTIFY THE DISTRICT COURT; AND**

20                   **2. MAY NOT EXECUTE THE WARRANT OF RESTITUTION**  
21 **WITHOUT FURTHER ORDER OF THE DISTRICT COURT.**

22                   **(II) IF THE DISTRICT COURT FINDS THAT THE LANDLORD DID**  
23 **NOT PROVIDE THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION,**  
24 **THE DISTRICT COURT SHALL VACATE THE WARRANT OF RESTITUTION.**

25                   **(4) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, IF**  
26 **THE LANDLORD PRESENTS THE DOCUMENTATION LISTED IN PARAGRAPH (2)(III) OF**  
27 **THIS SUBSECTION, ANY OFFICIAL OF THE COUNTY ENTITLED TO SERVE PROCESS**  
28 **MAY EXECUTE THE WARRANT BY PUTTING THE LANDLORD, THE LANDLORD'S DULY**  
29 **QUALIFIED AGENT, OR THE LANDLORD'S ATTORNEY IN POSSESSION OF THE**  
30 **PREMISES, WITHOUT REMOVAL OF ANY PERSONAL PROPERTY FROM THE PREMISES.**

31                   **(5) ALL PERSONAL PROPERTY REMAINING IN OR ABOUT THE LEASED**  
32 **PREMISES AT THE TIME THAT THE WARRANT OF RESTITUTION IS EXECUTED IN**  
33 **ACCORDANCE WITH THIS SUBSECTION SHALL BE DEEMED ABANDONED.**

1           **(6) THE LANDLORD OR ANY PERSON ACTING ON THE LANDLORD'S**  
2 **BEHALF MAY NOT BE LIABLE FOR ANY LOSS OR DAMAGE TO PROPERTY DEEMED**  
3 **ABANDONED UNDER THIS SUBSECTION.**

4           **(7) THE LANDLORD MAY DISPOSE OF ABANDONED PROPERTY BY:**

5                   **(I) TRANSPORTATION TO A LICENSED LANDFILL OR SOLID**  
6 **WASTE FACILITY;**

7                   **(II) DONATION TO CHARITY; OR**

8                   **(III) ANY OTHER LEGAL MEANS.**

9           **(8) PROPERTY DEEMED ABANDONED UNDER THIS SUBSECTION MAY**  
10 **NOT BE PLACED IN A PUBLIC RIGHT-OF-WAY OR ON ANY PUBLIC PROPERTY.**

11           **(9) NOTHING IN THIS SUBSECTION RESTRICTS THE AUTHORITY OF**  
12 **ANNE ARUNDEL COUNTY TO ENACT LEGISLATION GOVERNING LANDLORDS AND**  
13 **TENANTS, INCLUDING LEGISLATION ESTABLISHING PENALTIES FOR A VIOLATION OF**  
14 **THIS SUBSECTION.**

15           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
16 apply only prospectively and may not be applied or interpreted to have any effect on or  
17 application to any cause of action for repossession for failure to pay rent brought in Anne  
18 Arundel County arising before the effective date of this Act.

19           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 October 1, 2021.