

SENATE BILL 401

N1

(11r2073)

ENROLLED BILL

— *Judicial Proceedings/Environment and Transportation* —

Introduced by **Senator Carter**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Landlord–Tenant – Nonrenewal of Lease – Notice Requirements**

3 FOR the purpose of altering the period of time prior to the expiration of a tenancy that a
4 landlord is required to notify a tenant, in writing, of the intent to terminate a tenancy
5 upon expiration, under certain circumstances and subject to certain conditions;
6 applying the notice provisions statewide; making stylistic changes; providing for the
7 application of this Act; and generally relating to required notices for landlord–tenant
8 agreements.

9 BY repealing and reenacting, with amendments,
10 Article – Real Property
11 Section 8–402
12 Annotated Code of Maryland
13 (2015 Replacement Volume and 2020 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



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

3 **Article – Real Property**

4 8–402.

5 (a) (1) A tenant under any periodic tenancy, or at the expiration of a lease, and
6 someone holding under the tenant, who shall unlawfully hold over beyond the expiration of
7 the lease or termination of the tenancy, shall be liable to the landlord for the actual
8 damages caused by the holding over.

9 (2) The damages awarded to a landlord against the tenant or someone
10 holding under the tenant, may not be less than the apportioned rent for the period of
11 holdover at the rate under the lease.

12 (3) (i) Any action to recover damages under this section may be brought
13 by suit separate from the eviction or removal proceeding or in the same action and in any
14 court having jurisdiction over the amount in issue.

15 (ii) The court may also give judgment in favor of the landlord for the
16 damages determined to be due together with costs of the suit if the court finds that the
17 residential tenant was personally served with a summons, or, in the case of a nonresidential
18 tenancy, there was such service of process or submission to the jurisdiction of the court as
19 would support a judgment in contract or tort.

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

24 (4) Nothing contained herein is intended to limit any other remedies which
25 a landlord may have against a holdover tenant under the lease or under applicable law.

26 (b) (1) (i) Where any tenancy is for any definite term or at will, and the
27 landlord shall desire to repossess the property after the expiration of the term for which it
28 was leased and shall give notice [in writing one month before the expiration of the term or
29 determination of the will] **AS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION** to
30 the tenant or to the person actually in possession of the property to remove from the
31 property at the end of the term, and if the tenant or person in actual possession shall refuse
32 to comply, the landlord may make complaint in writing to the District Court of the county
33 where the property is located.

34 (ii) 1. The court shall issue a summons directed to any constable
35 or sheriff of the county entitled to serve process, ordering the constable or sheriff to notify
36 the tenant, assignee, or subtenant to appear on a day stated in the summons before the
37 court to show cause why restitution should not be made to the landlord.

1 2. The constable or sheriff shall serve the summons on the
2 tenant, assignee, or subtenant on the property, or on the known or authorized agent of the
3 tenant, assignee, or subtenant.

4 3. If, for any reason those persons cannot be found, the
5 constable or sheriff shall affix an attested copy of the summons conspicuously on the
6 property.

7 4. After notice to the tenant, assignee, or subtenant by
8 first-class mail, the affixing of the summons on the property shall be conclusively presumed
9 to be a sufficient service to support restitution.

10 (iii) Upon the failure of either of the parties to appear before the court
11 on the day stated in the summons, the court may continue the case to a day not less than
12 [six] **6** nor more than [ten] **10** days after the day first stated and notify the parties of the
13 continuance.

14 (2) (i) If upon hearing the parties, or in case the tenant or person in
15 possession shall neglect to appear after the summons and continuance the court shall find
16 that the landlord had been in possession of the leased property, that the said tenancy is
17 fully ended and expired, that due notice to quit as aforesaid had been given to the tenant
18 or person in possession and that the tenant or person in possession had refused so to do,
19 the court shall thereupon give judgment for the restitution of the possession of said
20 premises and shall forthwith issue its warrant to the sheriff or a constable in the respective
21 counties commanding the tenant or person in possession forthwith to deliver to the landlord
22 possession thereof in as full and ample manner as the landlord was possessed of the same
23 at the time when the tenancy was made, and shall give judgment for costs against the
24 tenant or person in possession so holding over.

25 (ii) Either party shall have the right to appeal therefrom to the
26 circuit court for the county within ~~ten~~ **10** days from the judgment.

27 (iii) If the tenant appeals and files with the District Court an affidavit
28 that the appeal is not taken for delay, and also a good and sufficient bond with one or more
29 securities conditioned that the tenant will prosecute the appeal with effect and well and
30 truly pay all rent in arrears and all costs in the case before the District Court and in the
31 appellate court and all loss or damage which the landlord may suffer by reason of the
32 tenant's holding over, including the value of the premises during the time the tenant shall
33 so hold over, then the tenant or person in possession of said premises may retain possession
34 thereof until the determination of said appeal.

35 (iv) The appellate court shall, upon application of either party, set a
36 day for the hearing of the appeal, not less than ~~five~~ **5** nor more than 15 days after the
37 application, and notice for the order for a hearing shall be served on the opposite party or
38 that party's counsel at least 5 days before the hearing.

(v) If the judgment of the District Court shall be in favor of the landlord, a warrant shall be issued by the appellate court to the sheriff, who shall proceed forthwith to execute the warrant.

[(3) (i) The provisions of this subsection shall apply to all cases of tenancies at the expiration of a stated term, tenancies from year to year, and tenancies of the month and by the week. In case of tenancies from year to year (including tobacco farm tenancies), notice in writing shall be given three months before the expiration of the current year of the tenancy, except that in case of all other farm tenancies, the notice shall be given six months before the expiration of the current year of the tenancy; and in monthly or weekly tenancies, a notice in writing of one month or one week, as the case may be, shall be so given.

(ii) This paragraph, so far as it relates to notices, does not apply in Baltimore City.

(iii) In Montgomery County, except in the case of single family dwellings, the notice by the landlord shall be two months in the case of residential tenancies with a term of at least month to month but less than from year to year.]

(C) (1) THIS SUBSECTION APPLIES TO ALL CASES OF TENANCIES AT THE EXPIRATION OF A STATED TERM, TENANCIES FROM YEAR TO YEAR, TENANCIES FROM MONTH TO MONTH, AND TENANCIES FROM WEEK TO WEEK.

(2) EXCEPT AS PROVIDED IN ~~PARAGRAPH (3)~~ PARAGRAPHS 3 AND 4 OF THIS SUBSECTION, A LANDLORD SHALL PROVIDE WRITTEN NOTICE OF THE INTENT TO TERMINATE A TENANCY:

(I) IF THE PARTIES HAVE A WRITTEN LEASE FOR A STATED TERM IN EXCESS OF 1 WEEK OR A TENANCY FROM MONTH TO MONTH:

~~1. 2 MONTHS, 60 DAYS BEFORE THE EXPIRATION OF THE TENANCY FOR TENANTS THAT HAVE RESIDED CONTINUOUSLY IN THE SAME PREMISES FOR 2 YEARS OR LESS; OR~~

~~2. 3 MONTHS BEFORE THE EXPIRATION OF THE TENANCY FOR TENANTS THAT HAVE RESIDED CONTINUOUSLY IN THE SAME PREMISES FOR MORE THAN 2 YEARS;~~

(II) IN THE CASE OF TENANCIES FROM YEAR TO YEAR, INCLUDING TOBACCO FARM TENANCIES FROM YEAR TO YEAR BUT EXCLUDING ALL OTHER FARM TENANCIES FROM YEAR TO YEAR, ~~3 MONTHS~~ 90 DAYS BEFORE THE EXPIRATION OF THE CURRENT YEAR OF THE TENANCY;

1 (III) IN THE CASE OF TENANCIES FROM YEAR TO YEAR FOR ALL
 2 OTHER FARM TENANCIES, ~~6 MONTHS~~ 180 DAYS BEFORE THE EXPIRATION OF THE
 3 CURRENT YEAR OF THE TENANCY; AND

4 (IV) IN THE CASE OF TENANCIES FROM WEEK TO WEEK:

5 1. IF THE PARTIES HAVE A WRITTEN LEASE, ~~1 WEEK~~ 7
 6 DAYS BEFORE THE EXPIRATION OF THE TENANCY; OR

7 2. IF THE PARTIES DO NOT HAVE A WRITTEN LEASE, ~~3~~
 8 ~~WEEKS~~ 21 DAYS BEFORE THE EXPIRATION OF THE TENANCY.

9 [(4)] (3) (I) When the tenant shall give notice by parol to the landlord
 10 or to the landlord's agent or representatives, at least ~~[one] 1 month~~ 30 DAYS before the
 11 expiration of the lease or tenancy in all cases except in cases of tenancies from year to year,
 12 and at least ~~[three] 3 months~~ 90 DAYS notice in all cases of tenancy from year to year
 13 (except in all cases of farm tenancy, the notice shall be ~~[six] 6 months~~ 180 DAYS), of the
 14 intention of the tenant to remove at the end of that year and to surrender possession of the
 15 property at that time, and the landlord, the landlord's agent, or representative shall prove
 16 the notice from the tenant by competent testimony, it shall not be necessary for the
 17 landlord, the landlord's agent or representative to provide a written notice to the tenant,
 18 but the proof of such notice from the tenant as aforesaid shall entitle the landlord to recover
 19 possession of the property hereunder.

20 (II) This paragraph shall not apply in Baltimore City.

21 (4) (I) THIS PARAGRAPH DOES NOT APPLY TO A PROPERTY THAT IS:

22 1. IN BALTIMORE CITY OR MONTGOMERY COUNTY;

23 2. OWNED BY A LANDLORD WHO OFFERS 5 OR MORE
 24 RESIDENTIAL DWELLING UNITS FOR RENT IN THE STATE; OR

25 3. SUBJECT TO AN ORDER TO DOCKET UNDER §
 26 7-105.1(E) OF THIS ARTICLE.

27 (II) IF A LANDLORD OF FOUR OR FEWER RESIDENTIAL
 28 DWELLING UNITS RECEIVES NOTICE OF AN INTENT TO FORECLOSE ON THE
 29 PROPERTY UNDER § 7-105.1(C)(1) OF THIS ARTICLE, THE LANDLORD MAY PROVIDE
 30 WRITTEN NOTICE OF THE INTENT TO TERMINATE A TENANCY BEFORE THE
 31 EXPIRATION OF THE LEASE; AND DESIRES TO TERMINATE THE TENANCY, THE
 32 LANDLORD SHALL PROVIDE WRITTEN NOTICE OF THE INTENT TO TERMINATE A
 33 TENANCY:

1 ~~(H)~~ 1. AT LEAST ~~1-MONTH~~ 30 DAYS BEFORE THE
 2 EXPIRATION OF THE LEASE IN CASES OF TENANCIES FROM MONTH TO MONTH OR
 3 TENANCIES FROM WEEK TO WEEK; OR

4 ~~(H)~~ 2. AT LEAST ~~2-MONTHS~~ 60 DAYS BEFORE THE
 5 EXPIRATION OF THE LEASE IN CASES OF TENANCIES FROM YEAR TO YEAR.

6 ~~[(5)]~~ ~~(4)~~ (I) Acceptance of any payment after notice but before eviction
 7 shall not operate as a waiver of any notice to quit, notice of intent to vacate or any judgment
 8 for possession unless the parties specifically otherwise agree in writing.

9 (II) Any payment accepted shall be first applied to the rent or the
 10 equivalent of rent apportioned to the date that the landlord actually recovers possession of
 11 the premises, then to court costs, including court awarded damages and legal fees and then
 12 to any loss of rent caused by the holdover.

13 (III) Any payment which is accepted in excess of the foregoing shall
 14 not bear interest but will be returned to the tenant in the same manner as security deposits
 15 as defined under § 8-203 of this title but shall not be subject to the penalties of that section.

16 [(c)] (D) Unless stated otherwise in the written lease and initialed by the tenant,
 17 when a landlord consents to a holdover tenant remaining on the premises, the holdover
 18 tenant becomes a periodic week-to-week tenant if the tenant was a week-to-week tenant
 19 before the tenant's holding over, and a periodic month-to-month tenant in all other cases.

20 SECTION 2. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be
 21 construed to apply:

22 (1) to any residential lease in the State executed on or after October 1,
 23 2021; and

24 (2) beginning October 1, 2021, to any residential lease in the State that:

25 (i) was executed before October 1, 2021; and

26 (ii) has expired and resulted in a ~~holdover tenancy~~ tenancy created
 27 under § 8-402(d) of the Real Property Article, as enacted by Section 1 of this Act, on or after
 28 October 1, 2021.

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