

SENATE BILL 401

N1

11r2073
CF HB 104

By: **Senator Carter**

Introduced and read first time: January 15, 2021

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: February 28, 2021

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)

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

16 **Article – Real Property**

17 8–402.

18 (a) (1) A tenant under any periodic tenancy, or at the expiration of a lease, and
19 someone holding under the tenant, who shall unlawfully hold over beyond the expiration of
20 the lease or termination of the tenancy, shall be liable to the landlord for the actual

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.



1 damages caused by the holding over.

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

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

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

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

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

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

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

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

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

37 4. After notice to the tenant, assignee, or subtenant by

1 first-class mail, the affixing of the summons on the property shall be conclusively presumed
2 to be a sufficient service to support restitution.

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

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

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

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

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

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

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

1 weekly tenancies, a notice in writing of one month or one week, as the case may be, shall
2 be so given.

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

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

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

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

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

16 ~~1. 2 MONTHS, 60 DAYS BEFORE THE EXPIRATION OF THE~~
17 ~~TENANCY FOR TENANTS THAT HAVE RESIDED CONTINUOUSLY IN THE SAME~~
18 ~~PREMISES FOR 2 YEARS OR LESS; OR~~

19 ~~2. 3 MONTHS BEFORE THE EXPIRATION OF THE~~
20 ~~TENANCY FOR TENANTS THAT HAVE RESIDED CONTINUOUSLY IN THE SAME~~
21 ~~PREMISES FOR MORE THAN 2 YEARS;~~

22 (II) IN THE CASE OF TENANCIES FROM YEAR TO YEAR,
23 INCLUDING TOBACCO FARM TENANCIES FROM YEAR TO YEAR BUT EXCLUDING ALL
24 OTHER FARM TENANCIES FROM YEAR TO YEAR, 3 MONTHS BEFORE THE EXPIRATION
25 OF THE CURRENT YEAR OF THE TENANCY;

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

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

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

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

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

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

13 **(4)** **IF A LANDLORD OF FOUR OR FEWER RESIDENTIAL DWELLING**
14 **UNITS RECEIVES NOTICE OF AN INTENT TO FORECLOSE ON THE PROPERTY UNDER §**
15 **7-105.1(C)(1) OF THIS ARTICLE, THE LANDLORD MAY PROVIDE WRITTEN NOTICE OF**
16 **THE INTENT TO TERMINATE A TENANCY BEFORE THE EXPIRATION OF THE LEASE:**

17 **(I)** **AT LEAST 1 MONTH BEFORE THE EXPIRATION OF THE LEASE**
18 **IN CASES OF TENANCIES FROM MONTH TO MONTH OR TENANCIES FROM WEEK TO**
19 **WEEK; OR**

20 **(II)** **AT LEAST 2 MONTHS BEFORE THE EXPIRATION OF THE**
21 **LEASE IN CASES OF TENANCIES FROM YEAR TO YEAR.**

22 ~~[(5)]~~ ~~(4)~~ **(I)** Acceptance of any payment after notice but before eviction
23 shall not operate as a waiver of any notice to quit, notice of intent to vacate or any judgment
24 for possession unless the parties specifically otherwise agree in writing.

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

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

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

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

3 (1) to any residential lease in the State executed on or after October 1,
4 2021; and

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

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

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.