

HOUSE BILL 49

N1, L2
HB 491/20 – ENT

(PRE-FILED)

11r0438

By: **Delegate Rosenberg**

Requested: July 12, 2020

Introduced and read first time: January 13, 2021

Assigned to: Environment and Transportation

A BILL ENTITLED

AN ACT concerning

Landlord and Tenant – Repossession for Failure to Pay Rent – Lead Risk Reduction Compliance

FOR the purpose of requiring an action for repossession for failure to pay rent to contain certain statements on whether the property is registered or licensed under certain local law or regulation and whether the property is an affected property under certain lead-based paint abatement laws; authorizing a court to adjourn a certain trial to enable either party to obtain documents or other proof of claim or defense under certain circumstances; repealing a certain prohibition against raising as an issue of fact a landlord's compliance with certain requirements related to lead-based paint abatement; requiring a landlord to provide direct evidence of certain required information under certain circumstances; requiring the court to determine the amount of rent and late fees due if a landlord has met a certain evidentiary burden; requiring a rental property in Baltimore City to be in compliance with certain lead-based paint abatement requirements before a landlord may file a complaint for repossession of the property for failure to pay rent; authorizing a court in Baltimore City to adjourn a certain trial to enable a party to procure certain witnesses or obtain documents or other proof of claim or defense under certain circumstances; requiring the Maryland Department of the Environment to report certain information to the General Assembly on or before a certain date; requiring the Maryland Department of the Environment to report certain information to the General Assembly quarterly under certain circumstances; requiring the Maryland Department of the Environment to report certain information to the Department of Legislative Services; making certain provisions of this Act subject to a certain contingency; making stylistic changes; and generally relating to actions for repossession for failure to pay rent.

BY repealing and reenacting, without amendments,
Article – Real Property
Section 8-401(a)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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)

BY repealing and reenacting, with amendments,
The Public Local Laws of Baltimore City
Section 9–2 and 9–5(a)
Article 4 – Public Local Laws of Maryland
(1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)

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

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;

(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 IS REQUIRED BY LOCAL LAW OR REGULATION TO OPERATE UNDER A VALID REGISTRATION OR LICENSE ISSUED BY A STATE, COUNTY, OR MUNICIPAL ORGANIZATION, STATING THAT THE PROPERTY IS REGISTERED OR LICENSED AND STATING THE REGISTRATION OR LICENSE NUMBER FOR THE PROPERTY TO BE REPOSSESSED; AND

[(vi)] **(VII)** If the property to be repossessed is an affected property as defined in § 6–801 of the Environment Article, stating that the **PROPERTY IS AN AFFECTED PROPERTY AND 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 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) 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) 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:

(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) (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) Notwithstanding the provisions of paragraphs (1) through (4) of this subsection:

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

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) (i) Notwithstanding the provisions of paragraphs (3) through (5) 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 **OR TO OBTAIN DOCUMENTS OR OTHER PROOF OF CLAIM OR DEFENSE**, the court may adjourn the trial for a period not exceeding [1 day] **10 DAYS**, except with the consent of all parties, the trial may be adjourned for a longer period of time.

(2) (i) **[The] IN A PROCEEDING UNDER THIS SECTION, THE LANDLORD SHALL PROVIDE DIRECT EVIDENCE OF THE** information required under subsection (b)(1)(vi) **AND (VII)** of this section [may not be an issue of fact in a trial under this section].

(ii) If, when the trial occurs, it appears to the satisfaction of the court, that **THE LANDLORD HAS MET THE BURDEN OF PROVIDING DIRECT EVIDENCE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH AND 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) of this section.

(iii) 1. If the trial does not occur within the time specified in subsection (b)(3)(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 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.

Article 4 – Baltimore City

9-2.

Whenever the tenant under any demise or agreement of rental, express or implied, verbal or written, of lands or tenements, whether real estate or chattels real within the limits of the City of Baltimore, shall fail to pay the rent thereunder when due and payable, it shall be lawful for the lessor to have again and repossess the premises so rented **SO LONG AS THE PREMISES COMPLY WITH THE REGISTRATION, PERMIT, OR LICENSE REQUIREMENTS SET FORTH IN § 5-4 OF ARTICLE 13 OF THE BALTIMORE CITY CODE AND §§ 6-811, 6-812, 6-815, 6-817, AND 6-819 OF THE ENVIRONMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND.** The filing of a complaint in summary ejectment under this subtitle, the trial of said cause and the granting of a judgment of restitution shall not preclude the plaintiff or the owner of said premises from filing and maintaining an independent suit for rent due and unpaid.

9-5.

(a) If, at the trial aforesaid, the judge shall be satisfied the interest of justice will be better served by an adjournment, **[he] TO ENABLE A PARTY TO PROCURE NECESSARY WITNESSES OR OBTAIN DOCUMENTS OR OTHER PROOF OF A CLAIM OR DEFENSE, OR FOR OTHER PURPOSES OF THE JUDGE'S DISCRETION, THE JUDGE** may adjourn the trial for a period not exceeding **[seven] 10** days, except by consent of the parties, and if at said trial or due adjournment, as aforesaid, it shall appear to the satisfaction of the judge before whom said complaint has been tried as aforesaid, that the rent or any part of the rent for said premises is actually due and unpaid, then the said judge shall give judgment in favor of said lessor for the amount of rent found due, with costs of suit, and shall order that said tenant and all persons claiming or holding by or under said tenant shall yield and render up possession of said premises unto said lessor, or unto **[his] THE LESSOR'S** duly qualified agent or attorney within 4 days thereafter; provided, however, that upon presentation of certificate signed by a practicing physician certifying that surrender of said premises within said period of 4 days would endanger the health or life of any occupant thereof, said judge may, at the trial or subsequent thereto, extend the time for such surrender of the premises upon such terms and for such period or periods as **[he] THE JUDGE** shall deem necessary and just. If the interval between the filing of the landlord's complaint and the trial of the cause shall be more than **[three] 3** days, any order or

judgment of said court with respect to the payment of rent shall include all rent due and unpaid up to and including the day of trial; and the proceedings amended to set forth the basis of said judgment or order.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On or before July 1, 2021, the Maryland Department of the Environment shall report to the General Assembly, in accordance with § 2-1257 of the State Government Article, on the status of the Department's implementation of the Lead Registration Compliance and Accreditation database.

(b) Beginning September 1, 2021, if the report under subsection (a) of this section does not indicate that the Lead Registration Compliance and Accreditation database is accessible to the public, on or before September 1, 2021, and quarterly thereafter, the Maryland Department of the Environment shall report to the General Assembly, in accordance with § 2-1257 of the State Government Article, on the status of the implementation of the Lead Registration Compliance and Accreditation database until the database is accessible by the public.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) Section 1 of this Act shall take effect January 31, 2022, contingent on the accessibility of the Lead Registration Compliance and Accreditation database of the Maryland Department of the Environment by the public.

(b) The Maryland Department of the Environment shall notify the Department of Legislative Services if the database is accessible to the public on or before January 31, 2022.

(c) If the Department of Legislative Services does not receive notice under subsection (b) of this section, with no further action required by the General Assembly, Section 1 of this Act shall be null and void.

SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 3 of this Act, this Act shall take effect June 1, 2021.