

HOUSE BILL 674

N1

EMERGENCY BILL

2lr1657
CF SB 384

By: **Delegates Stewart, Amprey, Charkoudian, Cullison, D. Jones, Lehman, Lierman, Love, Moon, Palakovich Carr, Ruth, Shetty, and Solomon**

Introduced and read first time: January 31, 2022

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Landlord and Tenant – Stay of Eviction Proceeding for Rental Assistance**
3 **Determination**

4 FOR the purpose of providing for the stay of certain eviction proceedings when a tenant is
5 waiting for a determination on an application for rental assistance; and generally
6 relating to eviction proceedings.

7 BY repealing and reenacting, with amendments,
8 Article – Real Property
9 Section 8–401
10 Annotated Code of Maryland
11 (2015 Replacement Volume and 2021 Supplement)

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

14 **Article – Real Property**

15 8–401.

16 (a) Whenever the tenant or tenants fail to pay the rent when due and payable, it
17 shall be lawful for the landlord to have again and repossess the premises in accordance
18 with this section.

19 (b) (1) Whenever any landlord shall desire to repossess any premises to which
20 the landlord is entitled under the provisions of subsection (a) of this section, the landlord
21 or the landlord's duly qualified agent or attorney shall ensure that the landlord has
22 completed the procedures required under subsection (c) of this section.

23 (2) After completing the procedures required under subsection (c) of this

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 section, a landlord or the landlord's duly qualified agent or attorney may file the landlord's
2 written complaint under oath or affirmation, in the District Court of the county wherein
3 the property is situated:

4 (i) Describing in general terms the property sought to be
5 repossessed;

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

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

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

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

17 (vi) If the property to be repossessed is an affected property as
18 defined in § 6–801 of the Environment Article, stating that the landlord has registered the
19 affected property as required under § 6–811 of the Environment Article and renewed the
20 registration as required under § 6–812 of the Environment Article and:

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

25 B. On or after February 24, 2006, stating the inspection
26 certificate number for the inspection conducted for the current tenancy as required under
27 § 6–815(c), § 6–817(b), or § 6–819(f) of the Environment Article; or

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

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

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

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

3 (3) For the purpose of the court's determination under subsection [(e)] (F)
4 of this section the landlord shall also specify the amount of rent due for each rental period
5 under the lease, the day that the rent is due for each rental period, and any late fees for
6 overdue rent payments.

7 (4) The District Court shall issue its summons, directed to any constable or
8 sheriff of the county entitled to serve process, and ordering the constable or sheriff to notify
9 the tenant, assignee, or subtenant by first-class mail:

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

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

14 (5) (i) The constable or sheriff shall proceed to serve the summons upon
15 the tenant, assignee, or subtenant or their known or authorized agent as follows:

16 1. If personal service is requested and any of the persons
17 whom the sheriff shall serve is found on the property, the sheriff shall serve any such
18 persons; or

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

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

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

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

33 1. Shall be directed to the sheriff of the appropriate county
34 or municipality; and

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

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

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

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

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

17 (ii) 1. The constable or sheriff shall proceed to serve the
18 summons upon the occupant of the premises or the next of kin of the deceased tenant, if
19 known, as follows:

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

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

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

31 (c) (1) Before a landlord may file a complaint under this section, the landlord
32 shall provide to the tenant a written notice of the landlord's intent to file a claim in the
33 District Court against the tenant to recover possession of the residential premises if the
34 tenant does not cure within 10 days after the written notice is provided to the tenant.

35 (2) The written notice required under paragraph (1) of this subsection shall
36 be in a form created by the Maryland Judiciary and notice shall occur when the notice is:

- 1 (i) Sent by first-class mail, certificate of mailing;
- 2 (ii) Affixed to the door of the premises; or
- 3 (iii) If elected by the tenant, sent by electronic delivery in at least one
4 of the following forms:
- 5 1. An e-mail message;
 - 6 2. A text message; or
 - 7 3. Through an electronic tenant portal.

8 (3) (i) A complaint for repossession filed in accordance with this section
9 shall include a statement that states and affirms the date on which the landlord provided
10 the notice required under paragraph (1) of this subsection.

11 (ii) A tenant may challenge assertions made by a landlord under this
12 paragraph, and the court may dismiss the landlord's complaint on a showing of sufficient
13 cause.

14 (d) **NOTWITHSTANDING ANY OTHER LAW, IF A TENANT PRESENTS**
15 **EVIDENCE SATISFACTORY TO THE COURT THAT THE TENANT IS CURRENTLY**
16 **WAITING FOR A DETERMINATION REGARDING A GOOD FAITH APPLICATION FOR**
17 **RENTAL ASSISTANCE FROM AN AGENCY THAT DISTRIBUTES FUNDS FOR RENTAL**
18 **ASSISTANCE, THE COURT SHALL:**

19 **(1) IF JUDGMENT HAS NOT BEEN ENTERED, STAY THE PROCEEDING;**
20 **OR**

21 **(2) IF JUDGMENT HAS BEEN ENTERED IN FAVOR OF THE LANDLORD,**
22 **STAY THE EXECUTION OF ANY WARRANT OF RESTITUTION OR ORDER REQUIRING**
23 **THE TENANT TO SURRENDER THE PREMISES.**

24 **(E)** (1) This subsection applies only to an action for the repossession of
25 residential property for failure to pay rent due during a government shutdown.

26 (2) Notwithstanding any other law, the court shall stay the proceeding if
27 the tenant or an occupant of the property that is the subject of the proceeding presents
28 evidence satisfactory to the court that the occupant:

- 29 (i) Uses the property as the individual's primary residence;
- 30 (ii) Is an employee of the federal or State government or an employee
31 of a local government in the State; and

1 (iii) Is involuntarily furloughed from work without pay because of a
2 government shutdown, regardless of whether the employee is required to report to work
3 during the furlough.

4 (3) (i) Subject to subparagraph (ii) of this paragraph, a stay under this
5 subsection shall be granted for a time that the court considers reasonable.

6 (ii) A stay under this subsection may not be granted for a period that
7 ends more than 30 days after the end of the government shutdown without a showing of
8 sufficient cause by a party to the action.

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

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

16 (ii) If, when the trial occurs, it appears to the satisfaction of the
17 court, that the rent, or any part of the rent and late fees are actually due and unpaid, the
18 court shall determine the amount of rent and late fees due as of the date the complaint was
19 filed less the amount of any utility bills, fees, or security deposits paid by a tenant under §
20 7–309 of the Public Utilities Article, if the trial occurs within the time specified by
21 subsection (b)(3) of this section.

22 (iii) 1. If the trial does not occur within the time specified in
23 subsection (b)(3)(i) of this section and the tenant has not become current since the filing of
24 the complaint, the court, if the complaint so requests, shall enter a judgment in favor of the
25 landlord for possession of the premises and determine the rent and late fees due as of the
26 trial date.

27 2. The determination of rent and late fees shall include the
28 following:

29 A. Rent claimed in the complaint;

30 B. Rent accruing after the date of the filing of the complaint;

31 C. Late fees accruing in or prior to the month in which the
32 complaint was filed; and

33 D. Credit for payments of rent and late fees and other fees,
34 utility bills, or security deposits paid by a tenant under § 7–309 of the Public Utilities
35 Article after the complaint was filed.

1 (iv) In the case of a residential tenancy, the court may also give
2 judgment in favor of the landlord for the amount of rent and late fees determined to be due
3 together with costs of the suit if the court finds that the residential tenant was personally
4 served with a summons.

5 (v) In the case of a nonresidential tenancy, if the court finds that
6 there was such service of process or submission to the jurisdiction of the court as would
7 support a judgment in contract or tort, the court may also give judgment in favor of the
8 landlord for:

- 9 1. The amount of rent and late fees determined to be due;
- 10 2. Costs of the suit; and
- 11 3. Reasonable attorney's fees, if the lease agreement
12 authorizes the landlord to recover attorney's fees.

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

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

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

28 **[(f)] (G)** (1) (i) Subject to the provisions of (2) of this subsection, if
29 judgment is given in favor of the landlord, and the tenant fails to comply with the
30 requirements of the order within 4 days, the court shall, at any time after the expiration of
31 the 4 days, issue its warrant, directed to any official of the county entitled to serve process,
32 ordering the official to cause the landlord to have again and repossess the property by
33 putting the landlord (or the landlord's duly qualified agent or attorney for the landlord's
34 benefit) in possession thereof, and for that purpose to remove from the property, by force if
35 necessary, all the furniture, implements, tools, goods, effects or other chattels of every
36 description whatsoever belonging to the tenant, or to any person claiming or holding by or
37 under said tenant.

1 (ii) If the landlord does not order a warrant of restitution within
2 sixty days from the date of judgment or from the expiration date of any stay of execution,
3 whichever shall be the later:

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

5 2. The judgment shall be applied to the number of judgments
6 necessary to foreclose a tenant's right to redemption of the leased premises as established
7 in subsection [(g)(2)] **(H)(2)** of this section unless the court in its discretion determines that
8 the judgment may not apply for purposes of subsection [(g)(2)] **(H)(2)** of this section.

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

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

14 2. The judgment shall be applied to the number of judgments
15 necessary to foreclose a tenant's right to redemption of the leased premises as established
16 in subsection [(g)(2)] **(H)(2)** of this section unless the court in its discretion determines that
17 the judgment may not apply for purposes of subsection [(g)(2)] **(H)(2)** of this section.

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

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

24 [(g)] **(H)** (1) Subject to paragraph (2) of this subsection, in any action of
25 summary ejection for failure to pay rent where the landlord is awarded a judgment giving
26 the landlord restitution of the leased premises, the tenant shall have the right to
27 redemption of the leased premises by tendering in cash, certified check or money order to
28 the landlord or the landlord's agent all past due amounts, as determined by the court under
29 subsection [(e)] **(F)** of this section, plus all court awarded costs and fees, at any time before
30 actual execution of the eviction order.

31 (2) This subsection does not apply to any tenant against whom 3 judgments
32 of possession have been entered for rent due and unpaid in the 12 months prior to the
33 initiation of the action to which this subsection otherwise would apply.

34 [(h)] **(I)** (1) The tenant or the landlord may appeal from the judgment of the
35 District Court to the circuit court for any county at any time within 4 days from the
36 rendition of the judgment.

1 (2) The tenant, in order to stay any execution of the judgment, shall give a
2 bond to the landlord with one or more sureties, who are owners of sufficient property in the
3 State of Maryland, with condition to prosecute the appeal with effect, and answer to the
4 landlord in all costs and damages mentioned in the judgment, and other damages as shall
5 be incurred and sustained by reason of the appeal.

6 (3) The bond shall not affect in any manner the right of the landlord to
7 proceed against the tenant, assignee or subtenant for any and all rents that may become
8 due and payable to the landlord after the rendition of the judgment.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
10 measure, is necessary for the immediate preservation of the public health or safety, has
11 been passed by a ye and nay vote supported by three-fifths of all the members elected to
12 each of the two Houses of the General Assembly, and shall take effect from the date it is
13 enacted.