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 in accordance with this section.

(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 ensure that the landlord has completed the procedures required under subsection (c) of this section.

(2) Subject to § 8–406 of this subtitle and after completing the procedures required under subsection (c) of this section, a landlord or the landlord's duly qualified agent or attorney may 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 to be repossessed is an affected property as defined in § 6–801 of the Environment Article, stating 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.

(3) For the purpose of the court's determination under subsection (e) 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.

(4) 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.

(5) (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.

(6) Notwithstanding the provisions of paragraphs (1) through (5) 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.

(7) (i) Notwithstanding the provisions of paragraphs (4) through (6) 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) Before a landlord may file a complaint under this section, the landlord shall provide to the tenant a written notice of the landlord's intent to file a claim in the District Court against the tenant to recover possession of the residential premises if the tenant does not cure within 10 days after the written notice is provided to the tenant.

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

1. Sent by first–class mail, certificate of mailing;

2. Affixed to the door of the premises; or

3. If elected by the tenant, sent by electronic delivery in at least one of the following forms:

A. An e–mail message;

B. A text message; or

C. Through an electronic tenant portal.

(ii) Electronic notice under subparagraph (i)3 of this paragraph shall provide the landlord with proof of the transmission of the notice.

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

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

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

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

(i) Uses the property as the individual's primary residence;

(ii) Is an employee of the federal or State government or an employee of a local government in the State; and

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

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

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

(e) (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, the court may adjourn the trial for a period not exceeding 1 day, except with the consent of all parties, the trial may be adjourned for a longer period of time.

(2) (i) The information required under subsection (b)(2)(vi) of this section may 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 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)(4) of this section.

(iii) 1. If the trial does not occur within the time specified in subsection (b)(4)(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.

(f) (1) (i) Except as provided in § 8–407 of this subtitle and subject to the provisions of paragraph (2) of this subsection, if judgment is given in favor of the landlord, and the tenant fails to comply with the requirements of the order within 7 days, the court shall, at any time after the expiration of the 7 days, issue its warrant, directed to any official of the county entitled to serve process, ordering the official to cause the landlord to have again and repossess the property by putting the landlord, or the landlord's duly qualified agent or attorney, in possession of the property, and for that purpose to remove from the property, by force if necessary, all the furniture, implements, tools, goods, effects or other chattels of every description whatsoever belonging to the tenant, or to any person claiming or holding by or under the tenant.

(ii) If the landlord does not order a warrant of restitution within 60 days from the later of the date of judgment or the expiration date of any stay of execution:

1. The judgment for possession shall be stricken; and

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

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

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

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

(2) (i) The administrative judge of any district shall stay the execution of a warrant of restitution of a residential property, from day to day, in the event of extreme weather conditions affecting the residential property, including:

1. A temperature or next–day forecasted temperature of 32 degrees Fahrenheit or lower;

2. A winter storm warning or blizzard warning issued by the National Weather Service;

3. A hurricane warning or tropical storm warning issued by the National Weather Service; and

4. An excessive heat warning issued by the National Weather Service.

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

(g) A warrant of restitution issued under this section shall be executed in compliance with the provisions of § 8–407 of this subtitle.

(h) (1) Subject to paragraph (3) of this subsection, in any action of summary ejectment for failure to pay rent where the landlord is awarded a judgment giving the landlord restitution of the leased premises, the tenant shall have the right to redemption of the leased premises by tendering in cash, certified check, or money order to the landlord or the landlord's agent all past due amounts, as determined by the court under subsection (e) of this section, plus all court awarded costs and fees, at any time before actual execution of the eviction order.

(2) An electronic or written check issued by a political subdivision or on behalf of a governmental entity shall have the same legal effect as a payment made by the tenant under paragraph (1) of this subsection.

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

(i) (1) The tenant or the landlord may appeal from the judgment of the District Court to the circuit court for any county at any time within 4 days from the rendition of the judgment.

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

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