

# HOUSE BILL 1269

N1

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By: **Delegate Rosenberg**

Introduced and read first time: February 8, 2019

Assigned to: Environment and Transportation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Wrongful Detainer – Emergency Hearing on Lease Agreement**

3 FOR the purpose of authorizing a certain property owner to file a complaint for wrongful  
4 detainer of property under certain circumstances; requiring a court to hold an  
5 emergency hearing on motion of any party to determine the legitimacy of a lease  
6 agreement for contested property in an action alleging wrongful detainer of property;  
7 and generally relating to actions alleging wrongful detainer of property.

8 BY repealing and reenacting, with amendments,

9 Article – Real Property

10 Section 14–132

11 Annotated Code of Maryland

12 (2015 Replacement Volume and 2018 Supplement)

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

15 **Article – Real Property**

16 14–132.

17 (a) In this section, “wrongful detainer” means to hold possession of real property  
18 without the right of possession.

19 (b) This section does not apply if:

20 (1) The person in actual possession of the property has been granted  
21 possession under a court order;

22 (2) A remedy is available under Title 8 of this article; or

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3) Any other exclusive means to recover possession is provided by statute  
2 or rule.

3 (c) A person may not hold possession of property unless the person is entitled to  
4 possession of the property under the law.

5 (d) (1) If a person violates subsection (c) of this section, [a person claiming  
6 possession may make complaint in writing to] **THE FOLLOWING PERSONS MAY FILE A**  
7 **COMPLAINT WITH** the District Court of the county in which the property is located:

8 (I) **A PERSON CLAIMING POSSESSION; AND**

9 (II) **THE OWNER OF PROPERTY ADJOINING THE PROPERTY IN**  
10 **DISPUTE IF THE ADJOINING PROPERTY HAS BEEN NEGATIVELY IMPACTED BY THE**  
11 **ALLEGED WRONGFUL DETAINER.**

12 (2) (I) On receipt of a complaint under paragraph (1) of this subsection,  
13 the court shall summons immediately the person in possession to appear before the court  
14 on the day specified in the summons to show cause, if any, why restitution of the possession  
15 of the property to the person filing the complaint should not be made.

16 (II) **ON RECEIPT OF A COMPLAINT UNDER PARAGRAPH (1)(II)**  
17 **OF THIS SUBSECTION, THE COURT SHALL ALSO SUMMONS IMMEDIATELY THE OWNER**  
18 **OF RECORD OF THE PROPERTY TO APPEAR BEFORE THE COURT ON THE DAY**  
19 **SPECIFIED IN THE SUMMONS TO DETERMINE RIGHTFUL POSSESSION OF THE**  
20 **PROPERTY.**

21 (3) If, for any reason, the person in actual possession cannot be found, the  
22 person authorized to serve process by the Maryland Rules shall affix an attested copy of  
23 the summons conspicuously on the property.

24 (4) If notice of the summons is sent to the person in possession by  
25 first-class mail, the affixing of the summons in accordance with paragraph (3) of this  
26 subsection shall constitute sufficient service to support restitution of possession.

27 (E) **ON MOTION OF ANY PARTY, THE COURT SHALL HOLD AN EMERGENCY**  
28 **HEARING TO DETERMINE THE LEGITIMACY OF A LEASE AGREEMENT RELATED TO**  
29 **THE PROPERTY IN DISPUTE.**

30 [(e)] (F) A counterclaim or cross-claim may not be filed in an action brought  
31 under this section.

32 [(f)] (G) (1) If the court determines that the [complainant] **PROPERTY**  
33 **OWNER** is legally entitled to possession, the court shall:

1 (i) Give judgment for restitution of the possession of the property to  
2 the complainant; and

3 (ii) Issue its warrant to the sheriff or constable commanding the  
4 sheriff or constable to deliver possession to the complainant.

5 (2) The court may also give judgment in favor of [the] ANY complainant for  
6 damages due to the wrongful detainer and for court costs and attorney fees if:

7 (i) The complainant claimed damages in the complaint; and

8 (ii) The court finds that:

9 1. The person in actual possession was personally served  
10 with the summons; or

11 2. There was service of process or submission to the  
12 jurisdiction of the court as would support a judgment in contract or tort.

13 (3) A person in actual possession who is not personally served with a  
14 summons is not subject to the personal jurisdiction of the District Court if the person  
15 appears in response to the summons and prior to the time that evidence is taken by the  
16 court and asserts that the appearance is only for the purpose of defending an in rem action.

17 [(g)] (H) Subject to § 8–118.1 of this article, a party to a wrongful detainer action  
18 brought in the District Court under this section may demand a trial by jury in accordance  
19 with Title 8, Subtitle 6 of this article.

20 [(h)] (I) (1) Not later than 10 days from the entry of the judgment of the  
21 District Court, either party may appeal to the circuit court for the county in which the  
22 property is located.

23 (2) The person in actual possession of the property may retain possession  
24 until the determination of the appeal if the person:

25 (i) Files with the court an affidavit that the appeal is not taken for  
26 delay; and

27 (ii) 1. Files sufficient bond with one or more securities  
28 conditioned on diligent prosecution of the appeal; or

29 2. Pays to the complainant or into the appellate court:

30 A. The fair rental value of the property for the entire period  
31 of possession up to the date of judgment;

32 B. All court costs in the case;

1 C. All losses or damages other than the fair rental value of  
2 the property up to the day of judgment that the court determined to be due because of the  
3 detention of possession; and

4 D. The fair rental value of the property during the pendency  
5 of the appeal.

6 (3) On application of [either] ANY party, the court shall set a hearing date  
7 for the appeal that is not less than 5 days or more than 15 days after the application for  
8 appeal.

9 (4) Notice of the order for a hearing shall be served on the parties or the  
10 parties' counsels not less than 5 days before the hearing.

11 [(i)] (J) If the [judgment of the circuit court shall be in favor of the person  
12 claiming possession] **CIRCUIT COURT FINDS THAT THE PARTY IN ACTUAL POSSESSION  
13 OF THE PROPERTY IS NOT ENTITLED TO POSSESSION OF THE PROPERTY**, a warrant  
14 shall be issued by the court to the sheriff, who shall proceed immediately to execute the  
15 warrant.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 2019.