

HOUSE BILL 785

N1

1lr1045

By: **Delegate Terrasa**

Introduced and read first time: January 29, 2021

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Landlord and Tenant – Commencement of Action to Repossess for Failure to**
3 **Pay Rent – Required Notice and Grace Period**

4 FOR the purpose of requiring a landlord or a duly authorized agent of a landlord to provide
5 certain written notice to a tenant in a certain manner and under certain
6 circumstances; authorizing a landlord or a duly authorized agent of a landlord to file
7 a complaint to repossess for failure to pay rent only a certain period of time after the
8 receipt of certain notice by a tenant; and generally relating to commencement of
9 actions to repossess for failure to pay rent.

10 BY repealing and reenacting, without amendments,
11 Article – Real Property
12 Section 8–401(a)
13 Annotated Code of Maryland
14 (2015 Replacement Volume and 2020 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Real Property
17 Section 8–401(b) and (c)
18 Annotated Code of Maryland
19 (2015 Replacement Volume and 2020 Supplement)

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

22 **Article – Real Property**

23 8–401.

24 (a) Whenever the tenant or tenants fail to pay the rent when due and payable, it
25 shall be lawful for the landlord to have again and repossess the premises.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) (1) Whenever any landlord shall desire to repossess any premises to which
2 the landlord is entitled under the provisions of subsection (a) of this section, the landlord
3 or the landlord's duly qualified agent or attorney shall **PROVIDE WRITTEN NOTICE BY**
4 **FIRST-CLASS MAIL, RETURN RECEIPT REQUESTED TO THE TENANT THAT THE RENT**
5 **IS UNPAID.**

6 (2) **A LANDLORD OR THE LANDLORD'S DULY QUALIFIED AGENT OR**
7 **ATTORNEY MAY** file the landlord's written complaint under oath or affirmation **NO**
8 **EARLIER THAN 10 DAYS AFTER THE DATE THAT THE TENANT RECEIVES THE**
9 **WRITTEN NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION,** in the
10 District Court of the county wherein the property is situated:

11 (i) Describing in general terms the property sought to be
12 repossessed;

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

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

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

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

24 (vi) If the property to be repossessed is an affected property as
25 defined in § 6-801 of the Environment Article, stating that the landlord has registered the
26 affected property as required under § 6-811 of the Environment Article and renewed the
27 registration as required under § 6-812 of the Environment Article and:

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

32 B. On or after February 24, 2006, stating the inspection
33 certificate number for the inspection conducted for the current tenancy as required under
34 § 6-815(c), § 6-817(b), or § 6-819(f) of the Environment Article; or

35 2. Stating that the owner is unable to provide an inspection

1 certificate number because:

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

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

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

11 **[(2)] (3)** For the purpose of the court's determination under subsection (c)
12 of this section the landlord shall also specify the amount of rent due for each rental period
13 under the lease, the day that the rent is due for each rental period, and any late fees for
14 overdue rent payments.

15 **[(3)] (4)** The District Court shall issue its summons, directed to any
16 constable or sheriff of the county entitled to serve process, and ordering the constable or
17 sheriff to notify the tenant, assignee, or subtenant by first-class mail:

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

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

22 **[(4)] (5)** (i) The constable or sheriff shall proceed to serve the
23 summons upon the tenant, assignee, or subtenant or their known or authorized agent as
24 follows:

25 1. If personal service is requested and any of the persons
26 whom the sheriff shall serve is found on the property, the sheriff shall serve any such
27 persons; or

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

32 (ii) The affixing of the summons upon the property after due
33 notification to the tenant, assignee, or subtenant by first-class mail shall conclusively be
34 presumed to be a sufficient service to all persons to support the entry of a default judgment
35 for possession of the premises, together with court costs, in favor of the landlord, but it shall
36 not be sufficient service to support a default judgment in favor of the landlord for the

1 amount of rent due.

2 **[(5)] (6)** Notwithstanding the provisions of paragraphs (1) through **[(4)]**
3 **(5)** of this subsection:

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

6 1. Shall be directed to the sheriff of the appropriate county
7 or municipality; and

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

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

13 **[(6)] (7)** (i) Notwithstanding the provisions of paragraphs **[(3)] (4)**
14 through **[(5)] (6)** of this subsection, if the landlord certifies to the court in the written
15 complaint required under paragraph **[(1)] (2)** of this subsection that, to the best of the
16 landlord's knowledge, the tenant is deceased, intestate, and without next of kin, the District
17 Court shall issue its summons, directed to any constable or sheriff of the county entitled to
18 serve process, and ordering the constable or sheriff to notify the occupant of the premises
19 or the next of kin of the deceased tenant, if known, by personal service:

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

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

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

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

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

33 2. The affixing of the summons upon the property shall
34 conclusively be presumed to be a sufficient service to all persons to support the entry of a
35 default judgment for possession of the premises, together with court costs, in favor of the

1 landlord, but it shall not be sufficient service to support a default judgment in favor of the
2 landlord for the amount of rent due.

3 (c) (1) If, at the trial on the fifth day indicated in subsection (b) of this section,
4 the court is satisfied that the interests of justice will be better served by an adjournment to
5 enable either party to procure their necessary witnesses, the court may adjourn the trial
6 for a period not exceeding 1 day, except with the consent of all parties, the trial may be
7 adjourned for a longer period of time.

8 (2) (i) The information required under subsection [(b)(1)(vi)] **(B)(2)(VI)**
9 of this section may not be an issue of fact in a trial under this section.

10 (ii) If, when the trial occurs, it appears to the satisfaction of the
11 court, that the rent, or any part of the rent and late fees are actually due and unpaid, the
12 court shall determine the amount of rent and late fees due as of the date the complaint was
13 filed less the amount of any utility bills, fees, or security deposits paid by a tenant under §
14 7-309 of the Public Utilities Article, if the trial occurs within the time specified by
15 subsection [(b)(3)] **(B)(4)** of this section.

16 (iii) 1. If the trial does not occur within the time specified in
17 subsection [(b)(3)(i)] **(B)(4)(I)** of this section and the tenant has not become current since
18 the filing of the complaint, the court, if the complaint so requests, shall enter a judgment
19 in favor of the landlord for possession of the premises and determine the rent and late fees
20 due as of the trial date.

21 2. The determination of rent and late fees shall include the
22 following:

23 A. Rent claimed in the complaint;

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

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

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

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

34 (v) In the case of a nonresidential tenancy, if the court finds that
35 there was such service of process or submission to the jurisdiction of the court as would
36 support a judgment in contract or tort, the court may also give judgment in favor of the

1 landlord for:

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

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

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

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

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

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2021.