

SENATE BILL 1014

N1

7lr0421

By: **Senator Conway**

Introduced and read first time: February 3, 2017

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Expedited Wrongful Detainer Proceedings – Property for Sale**
3 **or Lease**

4 FOR the purpose of requiring certain expedited proceedings in a wrongful detainer action
5 if the property that is the subject of the action is, at the time of the complaint,
6 advertised or listed for sale or lease by the complainant; requiring that notice of a
7 hearing on a certain complaint or a certain appeal be served in person or, under
8 certain circumstances, posted conspicuously on the property; requiring a certain
9 court to issue a warrant within a certain number of hours if the court rules in favor
10 of the complainant in a certain expedited wrongful detainer action; and generally
11 relating to a wrongful detainer action for possession of real property.

12 BY repealing and reenacting, with amendments,
13 Article – Real Property
14 Section 14–132
15 Annotated Code of Maryland
16 (2015 Replacement Volume and 2016 Supplement)

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

19 **Article – Real Property**

20 14–132.

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

23 (b) This section does not apply if:

24 (1) The person in actual possession of the property has been granted

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



possession under a court order;

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

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

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

(d) (1) If a person violates subsection (c) of this section, a person claiming possession may make complaint in writing to the District Court of the county in which the property is located.

(2) A COMPLAINT MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION IS SUBJECT TO EXPEDITED PROCEEDINGS IN ACCORDANCE WITH SUBSECTION (J) OF THIS SECTION IF THE PROPERTY THAT IS THE SUBJECT OF THE COMPLAINT IS, AT THE TIME OF THE COMPLAINT, ADVERTISED FOR SALE OR LEASE OR LISTED FOR SALE OR LEASE ON A LOCAL MULTIPLE LISTING SERVICE.

[(2)] (E) (1) On receipt of a complaint under [paragraph (1) of this] subsection **(D) OF THIS SECTION**, the court shall summons immediately the person in possession to appear before the court on the day specified in the summons to show cause, if any, why restitution of the possession of the property to the person filing the complaint should not be made.

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

[(4)] (3) If notice of the summons is sent to the person in possession by first-class mail, the affixing of the summons in accordance with paragraph **[(3)] (2)** of this subsection shall constitute sufficient service to support restitution of possession.

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

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

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

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

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

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

(ii) The court finds that:

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

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

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

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

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

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

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

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

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

B. All court costs in the case;

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

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

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

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

[(h)] (I) If the judgment of the circuit court shall be in favor of the person claiming possession, a warrant shall be issued by the court to the sheriff, who shall proceed immediately to execute the warrant.

(J) IF THE PROPERTY THAT IS THE SUBJECT OF A COMPLAINT UNDER THIS SECTION IS, AT THE TIME OF THE COMPLAINT, ADVERTISED FOR SALE OR LEASE OR LISTED FOR SALE OR LEASE ON A LOCAL MULTIPLE LISTING SERVICE, WRONGFUL DETAINER PROCEEDINGS UNDER THIS SECTION SHALL BE EXPEDITED AS FOLLOWS:

(1) (I) THE DISTRICT COURT SHALL SUMMONS IMMEDIATELY, IN PERSON, THE PERSON IN ACTUAL POSSESSION OF THE PROPERTY TO APPEAR BEFORE THE COURT ON THE DAY SPECIFIED IN THE SUMMONS, WHICH MAY BE NO MORE THAN 5 DAYS AFTER THE FILING OF THE COMPLAINT; AND

(II) IF, FOR ANY REASON, THE PERSON CANNOT BE FOUND, THE PERSON AUTHORIZED TO SERVE PROCESS BY THE MARYLAND RULES SHALL AFFIX AN ATTESTED COPY OF THE SUMMONS CONSPICUOUSLY ON THE PROPERTY;

(2) THE DISTRICT COURT SHALL ISSUE A RULING ON THE COMPLAINT WITHIN 2 DAYS OF THE HEARING;

(3) (I) AN APPEAL AUTHORIZED UNDER SUBSECTION (H) OF THIS SECTION MAY BE FILED WITH THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE PROPERTY IS LOCATED BY EITHER PARTY WITHIN 2 DAYS AFTER THE ENTRY OF JUDGMENT OF THE DISTRICT COURT;

(II) 1. THE COURT SHALL SET A HEARING DATE FOR AN APPEAL UNDER THIS PARAGRAPH WITHIN 3 DAYS AFTER THE APPLICATION FOR APPEAL; AND

2. THE COURT SHALL SERVE IMMEDIATELY AND IN PERSON NOTICE OF THE ORDER FOR THE HEARING ON THE PARTIES OR THE PARTIES' COUNSEL; AND

(III) THE JUDGMENT OF THE CIRCUIT COURT SHALL BE ISSUED WITHIN 2 DAYS AFTER THE APPEAL HAS BEEN HEARD; AND

(4) IF THE DISTRICT COURT, OR THE CIRCUIT COURT IN THE EVENT OF AN APPEAL, RULES IN FAVOR OF THE COMPLAINANT:

1 **(I) A WARRANT SHALL BE ISSUED BY THE COURT TO THE**
2 **SHERIFF WITHIN 24 HOURS AFTER THE RULING; AND**

3 **(II) THE SHERIFF SHALL PROCEED IMMEDIATELY TO EXECUTE**
4 **THE WARRANT.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2017.