

HOUSE BILL 174

N1, L2
HB 523/21 – JUD

(PRE-FILED)

2lr0494

By: **Delegate Lehman**

Requested: September 16, 2021

Introduced and read first time: January 12, 2022

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2022

CHAPTER _____

1 AN ACT concerning

2 **Landlord and Tenant – Repossession for Failure to Pay Rent – Registration and**
3 **License Information**

4 FOR the purpose of requiring a landlord, or a landlord's duly authorized agent, at the time
5 of filing a certain complaint in an action for repossession for failure to pay rent to
6 ~~submit certain original or electronic copies of documents in order to prove, by a~~
7 ~~certain standard of evidence, plead and demonstrate that a property is in compliance~~
8 ~~with, or exempt from, certain local license requirements and certain lead-based~~
9 ~~paint abatement laws; specifying that a certain provisional or temporary license is~~
10 ~~insufficient to satisfy certain filing requirements; establishing that information~~
11 ~~regarding the status of a rental property as an affected property under certain~~
12 ~~lead-based paint abatement laws may be an issue of fact at trial; establishing that~~
13 ~~a landlord may provide an electronic copy of a certain license as proof of compliance~~
14 ~~with certain local license requirements; prohibiting a court from entering a judgment~~
15 ~~in favor of a landlord who fails to prove that a property is in compliance with, or~~
16 ~~exempt from, certain local license requirements; and generally relating to actions for~~
17 repossession for failure to pay rent.

18 BY repealing and reenacting, without amendments,
19 Article – Real Property
20 Section 8–401(a)
21 Annotated Code of Maryland
22 (2015 Replacement Volume and 2021 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

BY repealing and reenacting, with amendments,
The Public Local Laws of Baltimore City
Section 9–3 and 9–5
Article 4 – Public Local Laws of Maryland
(1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)

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

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) 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) ~~(4)~~ AT THE TIME OF FILING A WRITTEN COMPLAINT UNDER THIS SUBSECTION, THE LANDLORD OR THE LANDLORD'S DULY AUTHORIZED AGENT SHALL SUBMIT DOCUMENTS TO THE DISTRICT COURT DEMONSTRATING PLEAD AND DEMONSTRATE THAT THE RENTAL PROPERTY IS:

~~1. LICENSED WITH THE COUNTY LICENSED IN COMPLIANCE WITH ALL, OR EXEMPT FROM, ANY APPLICABLE RENTAL PROPERTY LICENSING REQUIREMENTS OF THE LOCAL JURISDICTION IN WHICH THE RENTAL PROPERTY IS LOCATED; AND~~

~~2. IN COMPLIANCE WITH ALL REGISTRATION REQUIREMENTS UNDER TITLE 6, SUBTITLE 8, PART III OF THE ENVIRONMENT ARTICLE.~~

~~(H) A PROVISIONAL OR TEMPORARY LICENSE IS INSUFFICIENT
TO SATISFY THE REQUIREMENTS UNDER SUBPARAGRAPH (I) 1 OF THIS PARAGRAPH.~~

[(3)] (4) 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)] (5) 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)] (6) (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)] (7) Notwithstanding the provisions of paragraphs (1) through **[(4)] (6)** of this subsection:

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

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

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

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

8 **[(7)] (8)** (i) Notwithstanding the provisions of paragraphs **[(3)] (5)**
9 through **[(5)] (7)** of this subsection, if the landlord certifies to the court in the written
10 complaint required under paragraph **[(1)] (2)** of this subsection that, to the best of the
11 landlord's knowledge, the tenant is deceased, intestate, and without next of kin, the District
12 Court shall issue its summons, directed to any constable or sheriff of the county entitled to
13 serve process, and ordering the constable or sheriff to notify the occupant of the premises
14 or the next of kin of the deceased tenant, if known, by personal service:

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

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

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

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

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

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

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

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

~~1. 2. DURING TRIAL, THE LANDLORD SHALL HAVE THE~~
~~BURDEN OF PROVING, BY A PREPONDERANCE OF THE EVIDENCE, THAT THE~~
~~REQUIREMENTS UNDER SUBSECTION (B)(3)(I) 1 OF THIS SECTION HAVE BEEN MET~~
TO THE SATISFACTION OF THE COURT THAT THE RENTAL PROPERTY IS LICENSED IN
COMPLIANCE WITH, OR EXEMPT FROM, ANY APPLICABLE RENTAL PROPERTY
LICENSING REQUIREMENTS AS PROVIDED UNDER SUBSECTION (B)(3) OF THIS
SECTION.

~~2. 3.~~ **3.** IF THE LANDLORD FAILS TO PROVIDE PROOF UNDER
 SUBSUBPARAGRAPH ~~1~~ **2** OF THIS SUBPARAGRAPH, THE COURT MAY NOT ENTER A
 JUDGMENT IN FAVOR OF THE LANDLORD.

~~3. 4.~~ **4.** THE LANDLORD MAY PRESENT AN ELECTRONIC COPY
 OF THE LICENSE TO SATISFY THE BURDEN OF PROOF UNDER SUBSUBPARAGRAPH ~~1~~
2 OF THIS SUBPARAGRAPH.

(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)(3)] **(B)(5)** of this section.

(iii) 1. If the trial does not occur within the time specified in
 subsection [(b)(3)(i)] **(B)(5)(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.

Article 4 – Baltimore City

9–3.

(A) Whenever any lessor shall desire to have again and repossess any premises to which he is entitled under the provisions of the preceding section, he or his duly qualified agent or attorney, shall make his written complaint under oath or affirmation, in the District Court in Baltimore City, and describing therein in general terms the property sought to be had again and repossessed as aforesaid, and also setting forth the name of the tenant to whom the same is rented, or his assignee or under tenant or tenants, with the

amount of rent thereon due and unpaid; and praying by warrant to have again and repossess the premises, together with judgment for the amount of rent due and costs; and it shall thereupon be the duty of said District Court in Baltimore City forthwith to issue summons directed to a Constable of said court, ordering him to notify said tenant, assignee or under tenant forthwith to appear before the said District Court at trial to be held on the fifth day after the filing of said complaint, except as hereinafter provided, to show cause why the prayer of said lessor should not be granted as aforesaid, and the said Constable shall forthwith proceed to serve said summons on or before the third day after the filing of said complaint, upon said tenant, assignee or under tenant in said premises, or upon his or their known or authorized agent, or said Constable shall affix an attested copy of said summons conspicuously upon said premises, and such affixing of said summons shall, for the purposes of this subheading of this article, be deemed and construed a sufficient service upon all persons whomsoever.

(B) AT THE TIME OF FILING A WRITTEN COMPLAINT UNDER THIS SECTION, THE LESSOR OR THE LESSOR'S DULY AUTHORIZED AGENT SHALL ~~SUBMIT DOCUMENTS TO THE DISTRICT COURT IN BALTIMORE CITY DEMONSTRATING PLEAD AND DEMONSTRATE~~ THAT THE RENTAL PROPERTY IS LICENSED IN COMPLIANCE WITH, OR EXEMPT FROM, THE REQUIREMENTS OF ARTICLE 13, § 5-4 OF THE BALTIMORE CITY CODE AND TITLE 6, SUBTITLE 8, PART III OF THE ENVIRONMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND. A PROVISIONAL OR TEMPORARY LICENSE IS INSUFFICIENT TO SATISFY THE REQUIREMENTS OF ARTICLE 13, § 5-4 OF THE BALTIMORE CITY CODE.

9-5.

(a) **(1)** If, at the trial aforesaid, the judge shall be satisfied the interest of justice will be better served by an adjournment, he may adjourn the trial for a period not exceeding seven days, except by consent of the parties, and if at said trial or due adjournment, as aforesaid, it shall appear to the satisfaction of the judge before whom said complaint has been tried as aforesaid, that the rent or any part of the rent for said premises is actually due and unpaid, then the said judge shall give judgment in favor of said lessor for the amount of rent found due, with costs of suit, and shall order that said tenant and all persons claiming or holding by or under said tenant shall yield and render up possession of said premises unto said lessor, or unto his duly qualified agent or attorney within 4 days thereafter; provided, however, that upon presentation of certificate signed by a practicing physician certifying that surrender of said premises within said period of 4 days would endanger the health or life of any occupant thereof, said judge may, at the trial or subsequent thereto, extend the time for such surrender of the premises upon such terms and for such period or periods as he shall deem necessary and just. If the interval between the filing of the landlord's complaint and the trial of the cause shall be more than three days, any order or judgment of said court with respect to the payment of rent shall include all rent due and unpaid up to and including the day of trial; and the proceedings amended to set forth the basis of said judgment or order.

(2) DURING TRIAL, THE LANDLORD SHALL HAVE THE BURDEN OF PROVING, ~~BY A PREPONDERANCE OF THE EVIDENCE,~~ TO THE SATISFACTION OF THE COURT THAT THE PROPERTY IS LICENSED IN COMPLIANCE WITH, OR EXEMPT FROM, ARTICLE 13, § 5-4 OF THE BALTIMORE CITY CODE. THE LESSOR MAY PRESENT AN ELECTRONIC COPY OF THE LICENSE AS PROOF OF COMPLIANCE WITH ARTICLE 13, § 5-4 OF THE BALTIMORE CITY CODE. IF THE LESSOR FAILS TO PROVIDE PROOF THAT THE PROPERTY IS IN COMPLIANCE WITH ARTICLE 13, § 5-4 OF THE BALTIMORE CITY CODE, A JUDGE MAY NOT ENTER A JUDGMENT IN FAVOR OF THE LESSOR.

(b) (1) In any action of summary ejectment for failure to pay rent where the landlord is awarded a judgment giving him restitution of the leased premises, the tenant has the right to redemption of the leased premises by tendering in cash, certified check or money order to the landlord or his agent all past due rent and late fees, plus all court awarded costs and fees, at any time before actual execution of the eviction order.

(2) The right of redemption is not available to a tenant if the landlord alleges and shows that more than three judgments of restitution were issued against the tenant in the 12 months preceding the filing of the landlord's complaint.

(3) Nothing in this section shall preclude a tenant in any summary ejectment action from raising any defense available under the Public Local Laws of Baltimore City. If a tenant prevails on any of these defenses, the judgment, whether or not it includes a judgment of restitution against the tenant, shall not be considered a judgment of restitution for purposes of paragraph (2) of this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2023.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.