

HOUSE BILL 323

L1, L3, N1
HB 1093/21 – JUD

2lr0363

By: **Delegate Palakovich Carr**

Introduced and read first time: January 19, 2022

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 8, 2022

CHAPTER _____

1 AN ACT concerning

2 **Real Property – Limitations on Summoning Law Enforcement or Emergency**
3 **Services – Prohibition**

4 FOR the purpose of prohibiting a landlord from using a lease or form of lease that contains
5 a provision that limits a tenant's ability to summon, or penalizes a tenant or another
6 individual solely for summoning, the assistance of law enforcement or emergency
7 services; prohibiting a landlord from taking certain retaliatory actions because a
8 tenant or another individual summons the assistance of law enforcement or
9 emergency services for certain purposes; prohibiting a local jurisdiction from
10 enacting certain laws; providing that a prohibited law under this Act may be used as
11 an affirmative defense or as the basis of a claim by certain individuals under certain
12 circumstances; and generally relating to the summoning of emergency services to a
13 property.

14 BY repealing and reenacting, with amendments,
15 Article – Real Property
16 Section 8–208(d) and 8–208.1(a)
17 Annotated Code of Maryland
18 (2015 Replacement Volume and 2021 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article – Real Property
21 Section 8–208(f) and (g)(1) and 8–208.1(b)(1)
22 Annotated Code of Maryland
23 (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 adding to
Article – Real Property
Section 14–126
Annotated Code of Maryland
(2015 Replacement Volume and 2021 Supplement)

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

Article – Real Property

8–208.

(d) A landlord may not use a lease or form of lease containing any provision that:

(1) Has the tenant authorize any person to confess judgment on a claim arising out of the lease;

(2) Has the tenant agree to waive or to forego any right or remedy provided by applicable law;

(3) (i) Provides for a penalty for the late payment of rent in excess of 5% of the amount of rent due for the rental period for which the payment was delinquent; or

(ii) In the case of leases under which the rent is paid in weekly rental installments, provides for a late penalty of more than \$3 per week or a total of no more than \$12 per month;

(4) Has the tenant waive the right to a jury trial;

(5) Has the tenant agree to a period required for landlord's notice to quit which is less than that provided by applicable law; provided, however, that neither party is prohibited from agreeing to a longer notice period than that required by applicable law;

(6) Authorizes the landlord to take possession of the leased premises, or the tenant's personal property unless the lease has been terminated by action of the parties or by operation of law, and the personal property has been abandoned by the tenant without the benefit of formal legal process;

(7) Is against public policy and void pursuant to § 8–105 of this title; [or]

(8) Permits a landlord to commence an eviction proceeding or issue a notice to quit solely as retaliation against any tenant for planning, organizing, or joining a tenant organization with the purpose of negotiating collectively with the landlord; **OR**

1 **(9) (I) LIMITS THE ABILITY OF A TENANT TO SUMMON THE**
2 **ASSISTANCE OF LAW ENFORCEMENT OR EMERGENCY SERVICES OR PENALIZES A**
3 **TENANT SOLELY FOR SUMMONING THE ASSISTANCE OF LAW ENFORCEMENT OR**
4 **EMERGENCY SERVICES; OR**

5 **(II) PENALIZES A TENANT FOR THE ACTIONS OF ANOTHER**
6 **INDIVIDUAL SOLELY BECAUSE THE INDIVIDUAL SUMMONED THE ASSISTANCE OF**
7 **LAW ENFORCEMENT OR EMERGENCY SERVICES.**

8 (f) No provision of this section shall be deemed to be a bar to the applicability of
9 supplementary rights afforded by any public local law enacted by the General Assembly or
10 any ordinance or local law enacted by any municipality or political subdivision of this State;
11 provided, however, that no such law can diminish or limit any right or remedy granted
12 under the provisions of this section.

13 (g) (1) Any lease provision which is prohibited by terms of this section shall be
14 unenforceable by the landlord.

15 8–208.1.

16 (a) (1) For any reason listed in paragraph (2) of this subsection, a landlord of
17 any residential property may not:

18 (i) Bring or threaten to bring an action for possession against a
19 tenant;

20 (ii) Arbitrarily increase the rent or decrease the services to which a
21 tenant has been entitled; or

22 (iii) Terminate a periodic tenancy.

23 (2) A landlord may not take an action that is listed under paragraph (1) of
24 this subsection for any of the following reasons:

25 (i) Because the tenant or the tenant's agent has provided written or
26 actual notice of a good faith complaint about an alleged violation of the lease, violation of
27 law, or condition on the leased premises that is a substantial threat to the health or safety
28 of occupants to:

29 1. The landlord; or

30 2. Any public agency against the landlord;

31 (ii) Because the tenant or the tenant's agent has:

32 1. Filed a lawsuit against the landlord; or

2. Testified or participated in a lawsuit involving the landlord; [or]

(iii) Because the tenant has participated in any tenants' organization; OR

(IV) SOLELY BECAUSE THE TENANT OR ANOTHER INDIVIDUAL, INCLUDING ANOTHER RESIDENT, SUMMONED THE ASSISTANCE OF LAW ENFORCEMENT OR EMERGENCY SERVICES TO THE PROPERTY.

(b) (1) A landlord's violation of subsection (a) of this section is a "retaliatory action".

14-126.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "EMERGENCY SERVICES" INCLUDES FIRE, RESCUE, AND AMBULANCE SERVICES AND A MOBILE CRISIS TEAM AS DEFINED IN § 10-1401 OF THE HEALTH – GENERAL ARTICLE.

(3) "GOVERNING BODY" HAS THE MEANING STATED IN § 1-101 OF THE LOCAL GOVERNMENT ARTICLE.

(4) "MUNICIPALITY" HAS THE MEANING STATED IN § 1-101 OF THE LOCAL GOVERNMENT ARTICLE.

(5) "RENTAL LICENSE" MEANS ANY CERTIFICATE, LICENSE, OR PERMIT REQUIRED TO RENT RESIDENTIAL REAL PROPERTY ISSUED BY A COUNTY OR A MUNICIPALITY.

(B) THIS SECTION DOES NOT APPLY TO A LOCAL LAW OR ORDINANCE GOVERNING ~~THE~~:

(1) THE INSTALLATION AND USE OF RESIDENTIAL SECURITY ALARM SYSTEMS;

(2) THE PHYSICAL CONDITION, SANITATION, MAINTENANCE, OR REPAIR OF REAL PROPERTY, INCLUDING VACANT BUILDINGS;

(3) PARKING ENFORCEMENT; OR

1 **(4) CALLS TO LAW ENFORCEMENT CONCERNING SOCIAL**
2 **GATHERINGS OR EXCESSIVE NOISE THAT DO NOT INVOLVE AN OFFENSE SET FORTH**
3 **IN THE CRIMINAL LAW ARTICLE AND ARE:**

4 **(I) MADE WITH THE INTENT TO HARASS ANOTHER; OR**

5 **(II) KNOWINGLY FALSE, AS A WHOLE OR IN MATERIAL PART.**

6 **(C) (1) THE GOVERNING BODY OF A COUNTY OR MUNICIPALITY MAY NOT**
7 **ENACT A LOCAL LAW OR ORDINANCE THAT:**

8 **(I) ESTABLISHES A THRESHOLD OF REQUESTS TO SUMMON**
9 **LAW ENFORCEMENT OR EMERGENCY SERVICES TO A RESIDENTIAL PROPERTY AS**
10 **GROUND FOR DESIGNATING A PROPERTY AS A NUISANCE; OR**

11 **(II) PENALIZES OR AUTHORIZES A PENALTY AGAINST AN**
12 **OPERATOR, AN OWNER, AN OWNER–OCCUPANT, OR A TENANT FOR:**

13 **1. ~~SUMMONING~~ THE ACT OF SUMMONING LAW**
14 **ENFORCEMENT OR EMERGENCY SERVICES TO A RESIDENTIAL PROPERTY; OR**

15 **2. THE ACTIONS OF ANOTHER INDIVIDUAL TO SUMMON**
16 **THE ASSISTANCE OF LAW ENFORCEMENT OR EMERGENCY SERVICES TO A**
17 **RESIDENTIAL PROPERTY.**

18 **(2) THERE IS A PRESUMPTION THAT A LOCAL LAW OR ORDINANCE**
19 **RELATING TO SUMMONING LAW ENFORCEMENT OR EMERGENCY SERVICES TO A**
20 **RESIDENTIAL PROPERTY IS PROHIBITED UNDER PARAGRAPH (1)(II) OF THIS**
21 **SUBSECTION IF THE LOCAL LAW OR ORDINANCE AUTHORIZES OR REQUIRES:**

22 **(I) THE ASSESSMENT OF A MONETARY PENALTY OR FINE ON AN**
23 **OPERATOR, AN OWNER, AN OWNER–OCCUPANT, OR A TENANT;**

24 **(II) THE USE OF AN ACTION FOR REPOSSESSION OF A DWELLING**
25 **UNIT FROM A TENANT OR TERMINATION OR NONRENEWAL OF A TENANT’S LEASE; OR**

26 **(III) THE REVOCATION, SUSPENSION, OR NONRENEWAL OF A**
27 **RENTAL LICENSE.**

28 **(D) AN OPERATOR, AN OWNER, AN OWNER–OCCUPANT, OR A TENANT MAY**
29 **RAISE THE ISSUE THAT A LOCAL LAW OR ORDINANCE IS PROHIBITED UNDER**
30 **SUBSECTION (C) OF THIS SECTION:**

(1) AS A DEFENSE TO AN ACTION TO ENFORCE THE LOCAL LAW OR ORDINANCE; OR

(2) AS AN AFFIRMATIVE CLAIM FOR DAMAGES RESULTING FROM THE ENFORCEMENT OF THE LAW OR ORDINANCE.

(E) IF IN ANY PROCEEDING THE COURT FINDS IN FAVOR OF THE OPERATOR, OWNER, OWNER-OCCUPANT, OR TENANT, THE COURT MAY ENTER A JUDGMENT AGAINST THE COUNTY OR MUNICIPALITY ATTEMPTING TO ENFORCE THE PROHIBITED LOCAL LAW OR ORDINANCE AND AWARD THE OPERATOR, OWNER, OWNER-OCCUPANT, OR TENANT:

(1) REASONABLE DAMAGES;

(2) REASONABLE ATTORNEY'S FEES;

(3) COURT COSTS;

(4) REINSTATEMENT OF A RENTAL LICENSE; AND

(5) OTHER RELIEF AS DEEMED APPROPRIATE BY THE COURT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.