

HOUSE BILL 1114

N1

4lr2553
CF SB 992

By: **Delegates Terrasa, Atterbeary, Ebersole, Fair, Feldmark, Hill, Lehman, Ruth, and Williams**

Introduced and read first time: February 7, 2024

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Landlord and Tenant – Procedures for Failure to Pay Rent,**
3 **Breach of Lease, and Tenant Holding Over**

4 FOR the purpose of requiring a landlord to provide certain notice to a tenant when a court
5 has issued a warrant of restitution for a failure of a tenant to pay rent, a breach of
6 lease, or a tenant holding over under certain circumstances; establishing certain
7 procedures and requirements for the execution of a warrant for repossession;
8 providing for the disposition of certain personal property following the execution of
9 a warrant of restitution; establishing that this Act does not restrict the authority of
10 the State or a local jurisdiction to enact certain legislation; and generally relating to
11 repossession for failure to pay rent, breach of lease, and tenant holdovers.

12 BY repealing and reenacting, with amendments,
13 Article – Real Property
14 Section 8–401(f), (g), and (h), 8–402(b), and 8–402.1
15 Annotated Code of Maryland
16 (2023 Replacement Volume)

17 BY adding to
18 Article – Real Property
19 Section 8–401(g) and 8–407
20 Annotated Code of Maryland
21 (2023 Replacement Volume)

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

24 **Article – Real Property**

25 8–401.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(f) (1) (i) [Subject] **EXCEPT AS PROVIDED § 8-407 OF THIS SUBTITLE AND SUBJECT** to the provisions of paragraph (2) of this subsection, if judgment is given in favor of the landlord, and the tenant fails to comply with the requirements of the order within 4 days, the court shall, at any time after the expiration of the 4 days, issue its warrant, directed to any official of the county entitled to serve process, ordering the official to cause the landlord to have again and repossess the property by putting the landlord [(or] **OR** the landlord's duly qualified agent or attorney for the landlord's [benefit)] **BENEFIT** in possession [thereof, and for that purpose to remove from the property, by force if necessary, all the furniture, implements, tools, goods, effects or other chattels of every description whatsoever belonging to the tenant, or to any person claiming or holding by or under said tenant] **OF THE PROPERTY.**

(ii) If the landlord does not order a warrant of restitution within 60 days from the later of the date of judgment or the expiration date of any stay of execution:

1. The judgment for possession shall be stricken; and

2. The judgment shall be applied to the number of judgments necessary to foreclose a tenant's right to redemption of the leased premises as established in subsection [(g)(2)] **(H)(2)** of this section unless the court in its discretion determines that the judgment may not apply for purposes of subsection [(g)(2)] **(H)(2)** of this section.

(iii) If the landlord orders a warrant of restitution but takes no action on the warrant within 60 days from the later of the date the court issues the order for the warrant or the date as otherwise extended by the court:

1. The warrant of restitution shall expire and the judgment for possession shall be stricken; and

2. The judgment shall be applied to the number of judgments necessary to foreclose a tenant's right to redemption of the leased premises as established in subsection [(g)(2)] **(H)(2)** of this section unless the court in its discretion determines that the judgment may not apply for purposes of subsection [(g)(2)] **(H)(2)** of this section.

(2) (i) The administrative judge of any district may stay the execution of a warrant of restitution of a residential property, from day to day, in the event of extreme weather conditions.

(ii) When a stay has been granted under this paragraph, the execution of the warrant of restitution for which the stay has been granted shall be given priority and completed within 3 days after the extreme weather conditions cease.

(G) A WARRANT OF RESTITUTION ISSUED UNDER THIS SECTION SHALL BE EXECUTED IN COMPLIANCE WITH THE PROVISIONS OF § 8-407 OF THIS SUBTITLE.

1 **[(g)] (H)** (1) Subject to paragraph (3) of this subsection, in any action of
2 summary ejectment for failure to pay rent where the landlord is awarded a judgment giving
3 the landlord restitution of the leased premises, the tenant shall have the right to
4 redemption of the leased premises by tendering in cash, certified check, or money order to
5 the landlord or the landlord's agent all past due amounts, as determined by the court under
6 subsection (e) of this section, plus all court awarded costs and fees, at any time before actual
7 execution of the eviction order.

8 (2) An electronic or written check issued by a political subdivision or on
9 behalf of a governmental entity shall have the same legal effect as a payment made by the
10 tenant under paragraph (1) of this subsection.

11 (3) This subsection does not apply to any tenant against whom 3 judgments
12 of possession have been entered for rent due and unpaid in the 12 months prior to the
13 initiation of the action to which this subsection otherwise would apply.

14 **[(h)] (I)** (1) The tenant or the landlord may appeal from the judgment of the
15 District Court to the circuit court for any county at any time within 4 days from the
16 rendition of the judgment.

17 (2) The tenant, in order to stay any execution of the judgment, shall give a
18 bond to the landlord with one or more sureties, who are owners of sufficient property in the
19 State of Maryland, with condition to prosecute the appeal with effect, and answer to the
20 landlord in all costs and damages mentioned in the judgment, and other damages as shall
21 be incurred and sustained by reason of the appeal.

22 (3) The bond shall not affect in any manner the right of the landlord to
23 proceed against the tenant, assignee or subtenant for any and all rents that may become
24 due and payable to the landlord after the rendition of the judgment.

25 8-402.

26 (b) (1) (i) Subject to § 8-406 of this subtitle and where any tenancy is for
27 any definite term or at will, and the landlord shall desire to repossess the property after
28 the expiration of the term for which it was leased and shall give notice as required under
29 subsection (c) of this section to the tenant or to the person actually in possession of the
30 property to remove from the property at the end of the term, and if the tenant or person in
31 actual possession shall refuse to comply, the landlord may make complaint in writing to
32 the District Court of the county where the property is located.

33 (ii) 1. The court shall issue a summons directed to any constable
34 or sheriff of the county entitled to serve process, ordering the constable or sheriff to notify
35 the tenant, assignee, or subtenant to appear on a day stated in the summons before the
36 court to show cause why restitution should not be made to the landlord.

2. The constable or sheriff shall serve the summons on the tenant, assignee, or subtenant on the property, or on the known or authorized agent of the tenant, assignee, or subtenant.

3. If, for any reason those persons cannot be found, the constable or sheriff shall affix an attested copy of the summons conspicuously on the property.

4. After notice to the tenant, assignee, or subtenant by first-class mail, the affixing of the summons on the property shall be conclusively presumed to be a sufficient service to support restitution.

(iii) Upon the failure of either of the parties to appear before the court on the day stated in the summons, the court may continue the case to a day not less than 6 nor more than 10 days after the day first stated and notify the parties of the continuance.

(2) (i) If upon hearing the parties, or in case the tenant or person in possession shall neglect to appear after the summons and continuance the court shall find that the landlord had been in possession of the leased property, that the said tenancy is fully ended and expired, that due notice to quit as aforesaid had been given to the tenant or person in possession and that the tenant or person in possession had refused so to do, the court shall thereupon give judgment for the restitution of the possession of said premises and shall forthwith issue its warrant to the sheriff or a constable in the respective counties commanding the tenant or person in possession forthwith to deliver to the landlord possession thereof in as full and ample manner as the landlord was possessed of the same at the time when the tenancy was made, and shall give judgment for costs against the tenant or person in possession so holding over.

(ii) Either party shall have the right to appeal therefrom to the circuit court for the county within 10 days from the judgment.

(iii) If the tenant appeals and files with the District Court an affidavit that the appeal is not taken for delay, and also a good and sufficient bond with one or more securities conditioned that the tenant will prosecute the appeal with effect and well and truly pay all rent in arrears and all costs in the case before the District Court and in the appellate court and all loss or damage which the landlord may suffer by reason of the tenant's holding over, including the value of the premises during the time the tenant shall so hold over, then the tenant or person in possession of said premises may retain possession thereof until the determination of said appeal.

(iv) The appellate court shall, upon application of either party, set a day for the hearing of the appeal, not less than 5 nor more than 15 days after the application, and notice for the order for a hearing shall be served on the opposite party or that party's counsel at least 5 days before the hearing.

(v) If the judgment of the District Court shall be in favor of the landlord, a warrant shall be issued by the appellate court to the sheriff, who shall proceed forthwith to execute the warrant.

(3) A WARRANT OF RESTITUTION UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION SHALL BE EXECUTED IN COMPLIANCE WITH THE PROVISIONS OF § 8-407 OF THIS SUBTITLE.

8-402.1.

(a) (1) (i) Subject to § 8-406 of this subtitle and where an unexpired lease for a stated term provides that the landlord may repossess the premises prior to the expiration of the stated term if the tenant breaches the lease, the landlord may make complaint in writing to the District Court of the county where the premises is located if:

1. The tenant breaches the lease;

2. A. The landlord has given the tenant 30 days' written notice that the tenant is in violation of the lease and the landlord desires to repossess the leased premises; or

B. The breach of the lease involves behavior by a tenant or a person who is on the property with the tenant's consent, which demonstrates a clear and imminent danger of the tenant or person doing serious harm to themselves, other tenants, the landlord, the landlord's property or representatives, or any other person on the property and the landlord has given the tenant or person in possession 14 days' written notice that the tenant or person in possession is in violation of the lease and the landlord desires to repossess the leased premises; and

3. The tenant or person in actual possession of the premises refuses to comply.

(ii) The court shall summons immediately the tenant or person in possession to appear before the court on a day stated in the summons to show cause, if any, why restitution of the possession of the leased premises should not be made to the landlord.

(2) (i) If, for any reason, the tenant or person in actual possession cannot be found, the constable or sheriff shall affix an attested copy of the summons conspicuously on the property.

(ii) After notice is sent to the tenant or person in possession by first-class mail, the affixing of the summons on the property shall be conclusively presumed to be a sufficient service to support restitution.

(3) If either of the parties fails to appear before the court on the day stated in the summons, the court may continue the case for not less than six nor more than 10 days and notify the parties of the continuance.

(b) (1) If the court determines that the tenant breached the terms of the lease and that the breach was substantial and warrants an eviction, the court shall give judgment for the restitution of the possession of the premises and issue its warrant to the sheriff or a constable commanding the tenant to deliver possession to the landlord in as full and ample manner as the landlord was possessed of the same at the time when the lease was entered into. The court shall give judgment for costs against the tenant or person in possession.

(2) Either party may appeal to the circuit court for the county, within ten days from entry of the judgment. If the tenant (i) files with the District Court an affidavit that the appeal is not taken for delay; (ii) files sufficient bond with one or more securities conditioned upon diligent prosecution of the appeal; (iii) pays all rent in arrears, all court costs in the case; and (iv) pays all losses or damages which the landlord may suffer by reason of the tenant's holding over, the tenant or person in possession of the premises may retain possession until the determination of the appeal. Upon application of either party, the court shall set a day for the hearing of the appeal not less than five nor more than 15 days after the application, and notice of the order for a hearing shall be served on the other party or that party's counsel at least five days before the hearing. If the judgment of the District Court is in favor of the landlord, a warrant shall be issued by the court which hears the appeal to the sheriff, who shall execute the warrant.

(C) A WARRANT OF RESTITUTION ISSUED UNDER THIS SECTION SHALL BE EXECUTED IN COMPLIANCE WITH THE PROVISIONS OF § 8-407 OF THIS SUBTITLE.

[(c)] (D) (1) Acceptance of any payment after notice but before eviction shall not operate as a waiver of any notice of breach of lease or any judgment for possession unless the parties specifically otherwise agree in writing.

(2) Any payment accepted shall be first applied to the rent or the equivalent of rent apportioned to the date that the landlord actually recovers possession of the premises, then to court costs, including court awarded damages and legal fees and then to any loss of rent caused by the breach of lease.

(3) Any payment which is accepted in excess of the rent referred to in paragraph (2) of this subsection shall not bear interest but will be returned to the tenant in the same manner as security deposits as defined under § 8-203 of this title but shall not be subject to the penalties of that section.

8-407.

(A) THIS SECTION APPLIES TO A WARRANT OF RESTITUTION ISSUED TO A LANDLORD TO TAKE POSSESSION OF RESIDENTIAL PROPERTY UNDER § 8-401, § 8-402, OR § 8-402.1 OF THIS SUBTITLE OR AN EQUIVALENT PROVISION OF PUBLIC LOCAL LAW.

(B) (1) AFTER A COURT HAS ISSUED A WARRANT OF RESTITUTION, THE LANDLORD SHALL, AT LEAST 14 DAYS BEFORE THE SCHEDULED DATE OF REPOSSESSION AS SET BY THE SHERIFF, PROVIDE WRITTEN NOTICE TO THE TENANT OF THE DATE ON WHICH THE WARRANT OF RESTITUTION IS SCHEDULED TO BE EXECUTED BY:

(I) SENDING THE NOTICE BY FIRST-CLASS MAIL WITH CERTIFICATE OF MAILING; AND

(II) POSTING THE NOTICE ON THE FRONT DOOR OF THE LEASED PREMISES AND TAKING A DATE-STAMPED PHOTOGRAPH OF THE NOTICE POSTED ON THE FRONT DOOR.

(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(I) THE DISTRICT COURT SUMMARY EJECTMENT CASE NUMBER;

(II) THE TENANT'S NAME AS STATED IN THE SUMMARY EJECTMENT CASE;

(III) THE ADDRESS OF THE LEASED PREMISES;

(IV) THE DATE ON WHICH THE WARRANT OF RESTITUTION WAS ORDERED BY THE DISTRICT COURT;

(V) THE SCHEDULED DATE OF THE EVICTION;

(VI) A STATEMENT THAT THE REPOSSESSION MAY OCCUR UNLESS THE TENANT:

1. RETURNS POSSESSION OF THE LEASED PREMISES TO THE LANDLORD; OR

2. FOR A WARRANT OF RESTITUTION ISSUED UNDER § 8-401 OF THIS SUBTITLE, EXERCISES THE RIGHT TO REDEMPTION UNDER § 8-401 OF THIS SUBTITLE, IF AVAILABLE;

(VII) A STATEMENT THAT IF THE EVICTION OCCURS, ALL PERSONAL PROPERTY REMAINING IN OR ABOUT THE LEASED PREMISES WILL BE CONSIDERED ABANDONED AND MAY BE DISPOSED OF 10 DAYS AFTER THE EVICTION DATE;

(VIII) A STATEMENT INFORMING THE TENANT AS TO HOW THE TENANT MAY OBTAIN ANY PERSONAL PROPERTY LEFT IN OR ABOUT THE LEASED PREMISES AFTER THE EVICTION OCCURS;

(IX) A STATEMENT THAT THE NOTICE IS THE FINAL NOTICE TO THE TENANT OF THE INTENDED REPOSSESSION, EVEN IF THE REPOSSESSION IS STAYED FOR ANY REASON; AND

(X) THE TELEPHONE NUMBER, E-MAIL ADDRESS, AND MAILING ADDRESS AT WHICH THE LANDLORD MAY BE CONTACTED.

(3) A LANDLORD MAY CHARGE THE TENANT FOR EXPENSES ACTUALLY INCURRED IN PROVIDING NOTICE UNDER PARAGRAPH (1) OF THIS SUBSECTION IN AN AMOUNT NOT TO EXCEED \$5.

(4) THERE IS A REBUTTABLE PRESUMPTION THAT A TENANT WAS NOTIFIED AS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IF THE LANDLORD PROVIDES TO THE SHERIFF:

(I) THE CERTIFICATE OF MAILING;

(II) A PHOTOGRAPH OF THE NOTICE POSTED ON THE FRONT DOOR OF THE LEASED PREMISES CONTAINING A READABLE TIMESTAMP INDICATING THE DATE AND TIME THAT THE NOTICE WAS POSTED; AND

(III) A SIGNED AFFIDAVIT OF THE PERSON WHO POSTED THE NOTICE ON THE FRONT DOOR OF THE LEASED PREMISES.

(5) (I) IF THE SHERIFF REASONABLY BELIEVES THAT THE LANDLORD HAS NOT PROVIDED THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION OR THAT THE TENANT MAY HAVE REDEEMED THE PROPERTY, THE SHERIFF:

1. SHALL NOTIFY THE DISTRICT COURT; AND

2. MAY NOT EXECUTE THE WARRANT OF RESTITUTION WITHOUT FURTHER ORDER OF THE DISTRICT COURT.

(II) IF THE DISTRICT COURT FINDS THAT THE LANDLORD DID NOT PROVIDE THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DISTRICT COURT SHALL VACATE THE WARRANT OF RESTITUTION.

1 (C) EXCEPT AS PROVIDED IN SUBSECTION (B)(5) OF THIS SECTION, IF THE
2 LANDLORD PRESENTS THE DOCUMENTATION LISTED IN SUBSECTION (B)(1) OF THIS
3 SECTION, THE SHERIFF:

4 (1) SHALL FILE THE DOCUMENTATION WITH THE CLERK OF THE
5 COURT; AND

6 (2) MAY EXECUTE THE WARRANT OF RESTITUTION BY PUTTING THE
7 LANDLORD IN POSSESSION OF THE PREMISES, WITHOUT THE REMOVAL OF ANY
8 PERSONAL PROPERTY FROM THE PREMISES.

9 (D) IF A TENANT IS NOT PRESENT DURING THE EXECUTION OF THE
10 WARRANT OF RESTITUTION, THE SHERIFF SHALL POST A NOTICE ON THE FRONT
11 DOOR OF THE PREMISES STATING THAT REPOSSESSION OF THE PREMISES HAS BEEN
12 COMPLETED AND THAT THE TENANT HAS 10 DAYS TO RECLAIM THE TENANT'S
13 PERSONAL PROPERTY.

14 (E) (1) (I) A TENANT SHALL HAVE 10 DAYS FOLLOWING THE
15 EXECUTION OF A WARRANT OF RESTITUTION UNDER SUBSECTION (C) OF THIS
16 SECTION TO RECOVER PERSONAL PROPERTY FROM THE PREMISES OR ANOTHER
17 REASONABLY SECURE LOCATION CHOSEN BY THE LANDLORD.

18 (II) A LANDLORD MAY NOT CHARGE A TENANT ANY FEE FOR
19 STORING THE TENANT'S PERSONAL PROPERTY DURING THE 10-DAY PERIOD
20 ESTABLISHED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

21 (2) DURING THE 10-DAY PERIOD ESTABLISHED UNDER PARAGRAPH
22 (1) OF THIS SUBSECTION:

23 (I) THE LANDLORD SHALL MAKE THE TENANT'S PERSONAL
24 PROPERTY REASONABLY AVAILABLE FOR PURPOSES OF RECLAMATION; AND

25 (II) THE LANDLORD IS NOT LIABLE TO THE TENANT FOR ANY
26 LOSSES RELATING TO THE PERSONAL PROPERTY UNLESS THE LOSS IS THE RESULT
27 OF A DELIBERATE OR GROSSLY NEGLIGENT ACT ON THE PART OF THE LANDLORD.

28 (3) A TENANT MAY NOT WAIVE THE RIGHT TO RECLAIM PERSONAL
29 PROPERTY UNDER THIS SUBSECTION.

30 (F) (1) UNLESS THE LANDLORD AND TENANT AGREE OTHERWISE,
31 PERSONAL PROPERTY REMAINING IN OR ABOUT THE LEASED PREMISES OR IN THE
32 REASONABLY SECURE STORAGE LOCATION CHOSEN BY THE LANDLORD FOLLOWING

1 THE 10-DAY PERIOD ESTABLISHED UNDER SUBSECTION (E)(1) OF THIS SECTION
2 SHALL BE DEEMED ABANDONED.

3 (2) THE LANDLORD OR ANY PERSON ACTING ON THE LANDLORD'S
4 BEHALF MAY NOT BE HELD LIABLE FOR ANY LOSS OF OR DAMAGE TO PROPERTY
5 DEEMED ABANDONED UNDER THIS SUBSECTION.

6 (3) (I) EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS
7 SUBSECTION, A LANDLORD MAY DISPOSE OF ABANDONED PROPERTY BY:

- 8 1. TRANSPORTATION TO A LICENSED LANDFILL OR
9 SOLID WASTE FACILITY;
- 10 2. DONATION TO CHARITY;
- 11 3. SALE; OR
- 12 4. ANY OTHER LEGAL MEANS.

13 (II) IF A LANDLORD DISPOSES OF ABANDONED PROPERTY BY
14 SALE, THE TENANT SHALL BE ENTITLED TO ANY PROCEEDS OF THE SALE THAT
15 EXCEED ANY BACK RENT, MOVE-OUT COSTS, OR DAMAGE FEES OWED BY THE
16 TENANT TO THE LANDLORD.

17 (4) PROPERTY DEEMED ABANDONED UNDER THIS SUBSECTION MAY
18 NOT BE PLACED IN A PUBLIC RIGHT-OF-WAY OR ON ANY PUBLIC PROPERTY.

19 (5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, ON
20 THE EXECUTION OF A WARRANT OF RESTITUTION, A LANDLORD IS NOT PROHIBITED
21 FROM:

22 (I) DISPOSING OF ABANDONED PROPERTY CONSISTING OF
23 PERISHABLE FOOD, HAZARDOUS MATERIALS, OR TRASH; OR

24 (II) TRANSFERRING AN ANIMAL TO AN ANIMAL CONTROL
25 OFFICER, A HUMANE SOCIETY, OR ANY OTHER PERSON WILLING TO PROVIDE CARE
26 FOR THE ANIMAL.

27 (G) NOTHING IN THIS SECTION MAY BE INTERPRETED TO RESTRICT THE
28 AUTHORITY OF THE STATE AND LOCAL JURISDICTIONS TO ENACT LEGISLATION
29 GOVERNING LANDLORDS AND TENANTS, INCLUDING LEGISLATION ESTABLISHING
30 PENALTIES FOR A VIOLATION OF THIS SECTION.

1 **(H) IF A COURT FINDS IN FAVOR OF A TENANT BASED ON A VIOLATION OF**
2 **THIS SECTION, THE TENANT IS ENTITLED TO:**

3 **(1) ACTUAL DAMAGES;**

4 **(2) REASONABLE ATTORNEY'S FEES AND COSTS;**

5 **(3) INJUNCTIVE RELIEF TO RECOVER POSSESSION OF THE LEASED**
6 **PREMISES OR PERSONAL PROPERTY; OR**

7 **(4) ANY OTHER REMEDY THE COURT MAY FIND REASONABLE.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
9 apply only prospectively and may not be applied or interpreted to have any effect on or
10 application to any cause of action for repossession for failure to pay rent, breach of lease, or
11 tenant holdovers filed before the effective date of this Act.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2024.