

SENATE BILL 347

N1

EMERGENCY BILL

2lr1615

By: **Senators Beidle, Elfreth, and Rosapepe**

Introduced and read first time: January 21, 2022

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Anne Arundel County – Landlord and Tenant – Procedures for Failure to Pay**
3 **Rent**

4 FOR the purpose of authorizing a landlord in Anne Arundel County to repossess property
5 in a certain manner for the failure of a tenant to pay rent under certain
6 circumstances and subject to certain requirements; establishing certain procedures
7 and requirements for the execution of a warrant for repossession in Anne Arundel
8 County; providing for the disposition of certain personal property; establishing that
9 this Act does not restrict the authority of Anne Arundel County to enact certain
10 legislation; and generally relating to repossession for failure to pay rent in Anne
11 Arundel County.

12 BY repealing and reenacting, with amendments,
13 Article – Real Property
14 Section 8–401(f), (g), and (h)
15 Annotated Code of Maryland
16 (2015 Replacement Volume and 2021 Supplement)

17 BY adding to
18 Article – Real Property
19 Section 8–401(g)
20 Annotated Code of Maryland
21 (2015 Replacement Volume and 2021 Supplement)

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 IN SUBSECTION (G) OF THIS SECTION 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] **PERSONAL PROPERTY** of every description whatsoever belonging to the tenant, or to any person claiming or holding by or under said tenant.

(ii) If the landlord does not order a warrant of restitution within [sixty] **60** days from the date of judgment or from the expiration date of any stay of execution, whichever shall be the later:

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) (1) THIS SUBSECTION APPLIES ONLY IN ANNE ARUNDEL COUNTY.

(2) (I) SUBJECT TO THE PROVISIONS OF SUBSECTION (F)(1)(II)

1 AND (2) OF THIS SECTION, WHENEVER A JUDGMENT IS ENTERED IN FAVOR OF THE
2 LANDLORD, THE LANDLORD, THE LANDLORD'S DULY QUALIFIED AGENT, OR THE
3 LANDLORD'S ATTORNEY SHALL, AT LEAST 14 DAYS BEFORE THE INTENDED DATE OF
4 REPOSSESSION AS SET BY THE SHERIFF, PROVIDE WRITTEN NOTICE TO THE TENANT
5 OF THE DATE ON WHICH THE WARRANT OF RESTITUTION IS SCHEDULED TO BE
6 EXECUTED BY:

7 1. SENDING THE NOTICE BY FIRST-CLASS MAIL WITH
8 CERTIFICATE OF MAILING; AND

9 2. POSTING THE NOTICE ON THE FRONT DOOR OF THE
10 LEASED PREMISES.

11 (II) THE NOTICE REQUIRED UNDER SUBPARAGRAPH (I) OF THIS
12 PARAGRAPH SHALL INCLUDE:

13 1. THE DISTRICT COURT SUMMARY EJECTMENT CASE
14 NUMBER;

15 2. THE TENANT'S NAME AS STATED IN THE SUMMARY
16 EJECTMENT CASE;

17 3. THE ADDRESS OF THE LEASED PREMISES;

18 4. THE DATE ON WHICH THE WARRANT OF RESTITUTION
19 WAS ORDERED BY THE DISTRICT COURT;

20 5. THE DATE OF THE EVICTION;

21 6. A STATEMENT THAT THE REPOSSESSION MAY OCCUR
22 UNLESS THE TENANT:

23 A. RETURNS POSSESSION OF THE LEASED PREMISES TO
24 THE LANDLORD; OR

25 B. EXERCISES THE RIGHT TO REDEMPTION UNDER
26 SUBSECTION (H) OF THIS SECTION IF AVAILABLE;

27 7. A STATEMENT THAT IF THE REPOSSESSION OCCURS,
28 ALL PROPERTY REMAINING IN THE LEASED PREMISES WILL BE CONSIDERED
29 ABANDONED AND MAY BE DISPOSED OF ON EXECUTION OF THE WARRANT OF
30 RESTITUTION; AND

31 8. A STATEMENT THAT THE NOTICE IS THE FINAL

1 NOTICE TO THE TENANT OF THE INTENDED REPOSSESSION, EVEN IF THE
2 REPOSSESSION IS STAYED UNDER SUBSECTION (F)(2) OF THIS SECTION.

3 (III) THERE IS A REBUTTABLE PRESUMPTION THAT THE TENANT
4 WAS NOTIFIED AS REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IF
5 THE LANDLORD PROVIDES:

6 1. THE CERTIFICATE OF MAILING; AND

7 2. A SIGNED AFFIDAVIT OF THE PERSON WHO POSTED
8 THE NOTICE ON THE FRONT DOOR OF THE LEASED PREMISES.

9 (3) (I) IF THE SHERIFF REASONABLY BELIEVES THAT THE
10 LANDLORD HAS NOT PROVIDED THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF
11 THIS SUBSECTION, THE SHERIFF:

12 1. SHALL NOTIFY THE DISTRICT COURT; AND

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

15 (II) IF THE DISTRICT COURT FINDS THAT THE LANDLORD DID
16 NOT PROVIDE THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION,
17 THE DISTRICT COURT SHALL VACATE THE WARRANT OF RESTITUTION.

18 (4) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, IF
19 THE LANDLORD PRESENTS THE DOCUMENTATION LISTED IN PARAGRAPH (2)(III) OF
20 THIS SUBSECTION, ANY OFFICIAL OF THE COUNTY ENTITLED TO SERVE PROCESS
21 MAY EXECUTE THE WARRANT OF RESTITUTION BY PUTTING THE LANDLORD, THE
22 LANDLORD'S DULY QUALIFIED AGENT, OR THE LANDLORD'S ATTORNEY IN
23 POSSESSION OF THE PREMISES, WITHOUT REMOVAL OF ANY PERSONAL PROPERTY
24 FROM THE PREMISES.

25 (5) A TENANT SHALL HAVE 24 HOURS FOLLOWING THE EXECUTION OF
26 A WARRANT OF RESTITUTION UNDER PARAGRAPH (4) OF THIS SUBSECTION TO
27 RECOVER PERSONAL PROPERTY FROM THE PREMISES.

28 (6) ANY PERSONAL PROPERTY REMAINING IN OR ABOUT THE LEASED
29 PREMISES FOLLOWING THE 24-HOUR PERIOD UNDER PARAGRAPH (5) OF THIS
30 SUBSECTION SHALL BE DEEMED ABANDONED.

31 (7) THE LANDLORD OR ANY PERSON ACTING ON THE LANDLORD'S
32 BEHALF MAY NOT BE LIABLE FOR ANY LOSS OF OR DAMAGE TO PROPERTY DEEMED
33 ABANDONED UNDER THIS SUBSECTION.

(8) THE LANDLORD MAY DISPOSE OF ABANDONED PROPERTY BY:

(I) TRANSPORTATION TO A LICENSED LANDFILL OR SOLID WASTE FACILITY;

(II) DONATION TO CHARITY; OR

(III) ANY OTHER LEGAL MEANS.

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

(10) NOTHING IN THIS SUBSECTION RESTRICTS THE AUTHORITY OF ANNE ARUNDEL COUNTY TO ENACT LEGISLATION GOVERNING LANDLORDS AND TENANTS, INCLUDING LEGISLATION ESTABLISHING PENALTIES FOR A VIOLATION OF THIS SUBSECTION.

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

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

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or

1 application to any cause of action for repossession for failure to pay rent brought in Anne
2 Arundel County arising before the effective date of this Act.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
4 measure, is necessary for the immediate preservation of the public health or safety, has
5 been passed by a ye and nay vote supported by three-fifths of all the members elected to
6 each of the two Houses of the General Assembly, and shall take effect from the date it is
7 enacted.