

HOUSE BILL 452

N1
HB 1340/07 – HRU

8lr1929

By: **Delegates Niemann, Holmes, Sossi, and Stein**
Introduced and read first time: January 30, 2008
Assigned to: Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 4, 2008

CHAPTER _____

1 AN ACT concerning

2 **Landlord and Tenant – Summary Ejectment – Deceased Tenant**

3 FOR the purpose of authorizing a landlord to bring an action for summary ejectment
4 against a deceased, intestate tenant without next of kin under certain
5 circumstances; requiring a landlord bringing a certain action for summary
6 ejectment to state in a certain written complaint that, to the best of the
7 landlord's knowledge, the tenant is deceased, intestate, and without next of kin;
8 establishing certain notice and service of process requirements; providing that
9 certain property shall be presumed abandoned under certain circumstances;
10 and generally relating to an action for summary ejectment against a deceased
11 tenant.

12 BY repealing and reenacting, with amendments,
13 Article – Real Property
14 Section 8–401
15 Annotated Code of Maryland
16 (2003 Replacement Volume and 2007 Supplement)

17 BY adding to
18 Article – Real Property
19 Section 8–405
20 Annotated Code of Maryland
21 (2003 Replacement Volume and 2007 Supplement)

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

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.



1 **Article – Real Property**

2 8–401.

3 (a) Whenever the tenant or tenants fail to pay the rent when due and
4 payable, it shall be lawful for the landlord to have again and repossess the premises.

5 (b) (1) Whenever any landlord shall desire to repossess any premises to
6 which the landlord is entitled under the provisions of subsection (a) of this section, the
7 landlord or the landlord's duly qualified agent or attorney shall file the landlord's
8 written complaint under oath or affirmation, in the District Court of the county
9 wherein the property is situated:

10 (i) Describing in general terms the property sought to be
11 repossessed;

12 (ii) Setting forth the name of each tenant to whom the property
13 is rented or any assignee or subtenant;

14 (iii) Stating the amount of rent and any late fees due and
15 unpaid;

16 (iv) Requesting to repossess the premises and, if requested by
17 the landlord, a judgment for the amount of rent due, costs, and any late fees; [and]

18 **(V) IF APPLICABLE, STATING THAT, TO THE BEST OF THE**
19 **LANDLORD'S KNOWLEDGE, THE TENANT IS DECEASED, INTESTATE, AND**
20 **WITHOUT NEXT OF KIN; AND**

21 ~~[(v)]~~ **(VI)** If the property to be repossessed is an affected
22 property as defined in § 6–801 of the Environment Article, stating that the landlord
23 has registered the affected property as required under § 6–811 of the Environment
24 Article and renewed the registration as required under § 6–812 of the Environment
25 Article and:

26 1. A. If the current tenant moved into the property on or
27 after February 24, 1996, stating the inspection certificate number for the inspection
28 conducted for the current tenancy as required under § 6–815(c) of the Environment
29 Article; or

30 B. On or after February 24, 2006, stating the inspection
31 certificate number for the inspection conducted for the current tenancy as required
32 under § 6–815(c), § 6–817(b), or § 6–819(e) of the Environment Article; or

33 2. Stating that the owner is unable to provide an
34 inspection certificate number because:

1 A. The owner has requested that the tenant allow the
2 owner access to the property to perform the work required under Title 6, Subtitle 8 of
3 the Environment Article;

4 B. The owner has offered to relocate the tenant in order
5 to allow the owner to perform work if the work will disturb the paint on the interior
6 surfaces of the property and to pay the reasonable expenses the tenant would incur
7 directly related to the relocation; and

8 C. The tenant has refused to allow access to the owner or
9 refused to vacate the property in order for the owner to perform the required work.

10 (2) For the purpose of the court's determination under subsection (c) of
11 this section the landlord shall also specify the amount of rent due for each rental
12 period under the lease, the day that the rent is due for each rental period, and any late
13 fees for overdue rent payments.

14 (3) The District Court shall issue its summons, directed to any
15 constable or sheriff of the county entitled to serve process, and ordering the constable
16 or sheriff to notify the tenant, assignee, or subtenant by first-class mail:

17 (i) To appear before the District Court at the trial to be held on
18 the fifth day after the filing of the complaint; and

19 (ii) To answer the landlord's complaint to show cause why the
20 demand of the landlord should not be granted.

21 (4) (i) The constable or sheriff shall proceed to serve the summons
22 upon the tenant, assignee, or subtenant or their known or authorized agent as follows:

23 1. If personal service is requested and any of the persons
24 whom the sheriff shall serve is found on the property, the sheriff shall serve any such
25 persons; or

26 2. If personal service is requested and none of the
27 persons whom the sheriff is directed to serve shall be found on the property and, in all
28 cases where personal service is not requested, the constable or sheriff shall affix an
29 attested copy of the summons conspicuously upon the property.

30 (ii) The affixing of the summons upon the property after due
31 notification to the tenant, assignee, or subtenant by first-class mail shall conclusively
32 be presumed to be a sufficient service to all persons to support the entry of a default
33 judgment for possession of the premises, together with court costs, in favor of the
34 landlord, but it shall not be sufficient service to support a default judgment in favor of
35 the landlord for the amount of rent due.

1 (5) Notwithstanding the provisions of paragraphs (1) through (4) of
2 this subsection, in Wicomico County, in an action to repossess any premises under this
3 section, service of process on a tenant may be directed to any person authorized under
4 the Maryland Rules to serve process.

5 (6) (I) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS
6 (3) THROUGH (5) OF THIS SUBSECTION, IF THE LANDLORD CERTIFIES TO THE
7 COURT IN THE WRITTEN COMPLAINT REQUIRED UNDER PARAGRAPH (1) OF THIS
8 SUBSECTION THAT, TO THE BEST OF THE LANDLORD'S KNOWLEDGE, THE
9 TENANT IS DECEASED, INTESTATE, AND WITHOUT NEXT OF KIN, THE DISTRICT
10 COURT SHALL ISSUE ITS SUMMONS, DIRECTED TO ANY CONSTABLE OR SHERIFF
11 OF THE COUNTY ENTITLED TO SERVE PROCESS, AND ORDERING THE
12 CONSTABLE OR SHERIFF TO NOTIFY THE OCCUPANT OF THE PREMISES OR THE
13 NEXT OF KIN OF THE DECEASED TENANT, IF KNOWN, BY PERSONAL SERVICE:

14 1. TO APPEAR BEFORE THE DISTRICT COURT AT
15 THE TRIAL TO BE HELD ON THE FIFTH DAY AFTER THE FILING OF THE
16 COMPLAINT; AND

17 2. TO ANSWER THE LANDLORD'S COMPLAINT TO
18 SHOW CAUSE WHY THE DEMAND OF THE LANDLORD SHOULD NOT BE GRANTED.

19 (II) 1. THE CONSTABLE OR SHERIFF SHALL PROCEED TO
20 SERVE THE SUMMONS UPON THE OCCUPANT OF THE PREMISES OR THE NEXT OF
21 KIN OF THE DECEASED TENANT, IF KNOWN, AS FOLLOWS:

22 A. IF ANY OF THE PERSONS WHOM THE SHERIFF IS
23 DIRECTED TO SERVE ARE FOUND ON THE PROPERTY OR AT ANOTHER KNOWN
24 ADDRESS, THE SHERIFF SHALL SERVE ANY SUCH PERSONS; OR

25 B. IF NONE OF THE PERSONS WHOM THE SHERIFF IS
26 DIRECTED TO SERVE ARE FOUND ON THE PROPERTY OR AT ANOTHER KNOWN
27 ADDRESS, THE CONSTABLE OR SHERIFF SHALL AFFIX AN ATTESTED COPY OF
28 THE SUMMONS CONSPICUOUSLY UPON THE PROPERTY.

29 2. THE AFFIXING OF THE SUMMONS UPON THE
30 PROPERTY SHALL CONCLUSIVELY BE PRESUMED TO BE A SUFFICIENT SERVICE
31 TO ALL PERSONS TO SUPPORT THE ENTRY OF A DEFAULT JUDGMENT FOR
32 POSSESSION OF THE PREMISES, TOGETHER WITH COURT COSTS, IN FAVOR OF
33 THE LANDLORD, BUT IT SHALL NOT BE SUFFICIENT SERVICE TO SUPPORT A
34 DEFAULT JUDGMENT IN FAVOR OF THE LANDLORD FOR THE AMOUNT OF RENT
35 DUE.

36 (c) (1) If, at the trial on the fifth day indicated in subsection (b) of this
37 section, the court is satisfied that the interests of justice will be better served by an

1 adjournment to enable either party to procure their necessary witnesses, the court
2 may adjourn the trial for a period not exceeding 1 day, except with the consent of all
3 parties, the trial may be adjourned for a longer period of time.

4 (2) (i) The information required under subsection [(b)(1)(v)]
5 **(B)(1)(VI)** of this section may not be an issue of fact in a trial under this section.

6 (ii) If, when the trial occurs, it appears to the satisfaction of the
7 court, that the rent, or any part of the rent and late fees are actually due and unpaid,
8 the court shall determine the amount of rent and late fees due as of the date the
9 complaint was filed, if the trial occurs within the time specified by subsection (b)(3) of
10 this section.

11 (iii) 1. If the trial does not occur within the time specified in
12 subsection (b)(3)(i) of this section and the tenant has not become current since the
13 filing of the complaint, the court, if the complaint so requests, shall enter a judgment
14 in favor of the landlord for possession of the premises and determine the rent and late
15 fees due as of the trial date.

16 2. The determination of rent and late fees shall include
17 the following:

18 A. Rent claimed in the complaint;

19 B. Rent accruing after the date of the filing of the
20 complaint;

21 C. Late fees accruing in or prior to the month in which
22 the complaint was filed; and

23 D. Credit for payments of rent and late fees made by the
24 tenant after the complaint was filed.

25 (iv) In the case of a residential tenancy, the court may also give
26 judgment in favor of the landlord for the amount of rent and late fees determined to be
27 due together with costs of the suit if the court finds that the residential tenant was
28 personally served with a summons.

29 (v) In the case of a nonresidential tenancy, if the court finds
30 that there was such service of process or submission to the jurisdiction of the court as
31 would support a judgment in contract or tort, the court may also give judgment in
32 favor of the landlord for:

33 1. The amount of rent and late fees determined to be
34 due;

35 2. Costs of the suit; and

1 3. Reasonable attorney's fees, if the lease agreement
2 authorizes the landlord to recover attorney's fees.

3 (vi) A nonresidential tenant who was not personally served with
4 a summons shall not be subject to personal jurisdiction of the court if that tenant
5 asserts that the appearance is for the purpose of defending an in rem action prior to
6 the time that evidence is taken by the court.

7 (3) The court, when entering the judgment, shall also order that
8 possession of the premises be given to the landlord, or the landlord's agent or attorney,
9 within 4 days after the trial.

10 (4) The court may, upon presentation of a certificate signed by a
11 physician certifying that surrender of the premises within this 4-day period would
12 endanger the health or life of the tenant or any other occupant of the premises, extend
13 the time for surrender of the premises as justice may require but not more than 15
14 days after the trial.

15 (5) However, if the tenant, or someone for the tenant, at the trial, or
16 adjournment of the trial, tenders to the landlord the rent and late fees determined by
17 the court to be due and unpaid, together with the costs of the suit, the complaint
18 against the tenant shall be entered as being satisfied.

19 (d) (1) (i) Subject to the provisions of paragraph (2) of this subsection,
20 if judgment is given in favor of the landlord, and the tenant fails to comply with the
21 requirements of the order within 4 days, the court shall, at any time after the
22 expiration of the 4 days, issue its warrant, directed to any official of the county
23 entitled to serve process, ordering the official to cause the landlord to have again and
24 repossess the property by putting the landlord (or the landlord's duly qualified agent
25 or attorney for the landlord's benefit) in possession thereof, and for that purpose to
26 remove from the property, by force if necessary, all the furniture, implements, tools,
27 goods, effects or other chattels of every description whatsoever belonging to the tenant,
28 or to any person claiming or holding by or under said tenant.

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

32 1. The judgment for possession shall be stricken; and

33 2. The judgment shall be applied to the number of
34 judgments necessary to foreclose a tenant's right to redemption of the leased premises
35 as established in subsection (e)(2) of this section unless the court in its discretion
36 determines that the judgment may not apply for purposes of subsection (e)(2) of this
37 section.

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

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

6 2. The judgment shall be applied to the number of
7 judgments necessary to foreclose a tenant's right to redemption of the leased premises
8 as established in subsection (e)(2) of this section unless the court in its discretion
9 determines that the judgment may not apply for purposes of subsection (e)(2) of this
10 section.

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

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

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

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

28 (f) (1) The tenant or the landlord may appeal from the judgment of the
29 District Court to the circuit court for any county at any time within 4 days from the
30 rendition of the judgment.

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

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

1 **8-405.**

2 (A) IF A TENANT UNDER A LEASE DIES INTESTATE AND WITHOUT NEXT
3 OF KIN, THE LANDLORD MAY BRING AN ACTION FOR SUMMARY EJECTMENT
4 UNDER § 8-401 OF THIS SUBTITLE AGAINST THE TENANT NAMED IN THE LEASE
5 ~~REGARDLESS OF~~ NOTWITHSTANDING THE TENANT'S DEATH.

6 (B) THE LANDLORD SHALL CERTIFY TO THE COURT IN THE WRITTEN
7 COMPLAINT REQUIRED UNDER § 8-401(B)(1) OF THIS SUBTITLE THAT, TO THE
8 BEST OF THE LANDLORD'S KNOWLEDGE, THE TENANT IS DECEASED, INTESTATE,
9 AND WITHOUT NEXT OF KIN.

10 (C) PROPERTY OR INCOME FROM PROPERTY THAT A LANDLORD HOLDS
11 FOR A DECEASED, INTESTATE TENANT WITHOUT NEXT OF KIN SHALL BE
12 PRESUMED ABANDONED IN ACCORDANCE WITH TITLE 17 OF THE COMMERCIAL
13 LAW ARTICLE.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2008.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.