

SENATE BILL 176

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0lr1849
CF 0lr1846

By: **Senators Eckardt and Carozza**

Introduced and read first time: January 13, 2020

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Wicomico County – Landlord and Tenant – Repossession for Failure to Pay Rent**
3 **– Procedures**

4 FOR the purpose of authorizing a landlord in Wicomico County to repossess property for
5 failure to pay rent in a certain manner under certain circumstances; requiring the
6 landlord to provide a certain notice to a certain tenant in a certain manner;
7 establishing a certain rebuttable presumption; requiring a sheriff to notify the
8 District Court if the sheriff reasonably believes certain notice has not been provided
9 and prohibiting the sheriff from executing the warrant of restitution under certain
10 circumstances; requiring the District Court to vacate a certain warrant of execution
11 under certain circumstances; establishing that chattels and personal property
12 remaining at the time a certain warrant of restitution is executed are deemed
13 abandoned; establishing that the landlord or a person acting on the landlord's behalf
14 may not be liable for loss or damage to certain abandoned property; authorizing a
15 landlord to dispose of certain abandoned property in a certain manner; prohibiting
16 certain abandoned property from being placed in a public right-of-way or on any
17 public property; establishing that this Act does not restrict the authority of Wicomico
18 County to enact certain legislation; providing for the application of this Act; and
19 generally relating to repossession in Wicomico County.

20 BY repealing and reenacting, with amendments,
21 Article – Real Property
22 Section 8–401(d)
23 Annotated Code of Maryland
24 (2015 Replacement Volume and 2019 Supplement)

25 BY adding to
26 Article – Real Property
27 Section 8–401(d–1)
28 Annotated Code of Maryland
29 (2015 Replacement Volume and 2019 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

Article – Real Property

8–401.

(d) (1) (i) [Subject] **EXCEPT AS PROVIDED IN SUBSECTION (D–1) 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 the landlord's duly qualified agent or attorney for the landlord's 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.

(ii) If the landlord does not order a warrant of restitution within sixty 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 (e)(2) of this section unless the court in its discretion determines that the judgment may not apply for purposes of subsection (e)(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 (e)(2) of this section unless the court in its discretion determines that the judgment may not apply for purposes of subsection (e)(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.

(D-1) (1) THIS SUBSECTION APPLIES ONLY IN WICOMICO COUNTY.

(2) (I) SUBJECT TO THE PROVISIONS OF SUBSECTION (D)(1)(II) AND (2) OF THIS SECTION, IF JUDGMENT IS GIVEN IN FAVOR OF THE LANDLORD, THE LANDLORD, THE LANDLORD'S DULY QUALIFIED AGENT, OR THE LANDLORD'S ATTORNEY MAY PROVIDE FOR REPOSSESSION OF THE PROPERTY BY NOTIFYING THE TENANT OF THE INTENDED REPOSSESSION IN WRITING:

1. SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AT LEAST 14 DAYS BEFORE THE INTENDED DATE OF REPOSSESSION; AND

2. POSTED ON THE LEASED PREMISES AT LEAST 7 DAYS BEFORE THE INTENDED DATE OF REPOSSESSION.

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

1. THE DISTRICT COURT SUMMARY EJECTMENT CASE NUMBER;

2. THE TENANT'S NAME AS STATED IN THE LEASE OR OTHERWISE AGREED BY THE LANDLORD;

3. THE ADDRESS OF THE LEASED PREMISES;

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

5. A STATEMENT THAT THE REPOSSESSION MAY OCCUR UNLESS THE TENANT:

A. RETURNS CONTROL OF THE LEASED PREMISES TO THE LANDLORD; OR

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

6. A STATEMENT THAT IF THE REPOSSESSION OCCURS, ALL PROPERTY REMAINING IN THE LEASED PREMISES WILL BE CONSIDERED ABANDONED AND MAY BE DISPOSED OF ON EXECUTION OF THE WARRANT OF

1 RESTITUTION; AND

2 7. A STATEMENT THAT THE NOTICE IS THE FINAL
3 NOTICE TO THE TENANT OF THE INTENDED REPOSSESSION, EVEN IF THE
4 REPOSSESSION IS STAYED UNDER SUBSECTION (D)(2) OF THIS SECTION.

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

8 1. THE CERTIFICATE OF MAILING; AND

9 2. A SIGNED AFFIDAVIT OF THE PERSON WHO POSTED
10 THE NOTICE ON THE LEASED PREMISES.

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

14 1. SHALL NOTIFY THE DISTRICT COURT; AND

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

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

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

27 (5) ALL CHATTELS AND PERSONAL PROPERTY REMAINING IN OR
28 ABOUT THE LEASED PREMISES AT THE TIME THAT THE WARRANT OF RESTITUTION
29 IS EXECUTED IN ACCORDANCE WITH THIS SUBSECTION SHALL BE DEEMED
30 ABANDONED.

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

1 **(7) THE LANDLORD MAY DISPOSE OF ABANDONED PROPERTY BY:**

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

4 **(II) DONATION TO CHARITY; OR**

5 **(III) ANY OTHER LEGAL MEANS.**

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

8 **(9) NOTHING IN THIS SUBSECTION RESTRICTS THE AUTHORITY OF**
9 **WICOMICO COUNTY TO ENACT LEGISLATION GOVERNING LANDLORDS AND**
10 **TENANTS, INCLUDING LEGISLATION ESTABLISHING PENALTIES FOR A VIOLATION OF**
11 **THIS SUBSECTION.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
13 apply only prospectively and may not be applied or interpreted to have any effect on or
14 application to any cause of action for repossession for failure to pay rent brought in
15 Wicomico County arising before the effective date of this Act.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2020.