

HOUSE BILL 1612

N1

8lr3372

By: **Delegates Rosenberg, Ali, and Gibson**

Introduced and read first time: February 9, 2018

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Wrongful Detainer – Emergency Hearing on Lease Agreement**

3 FOR the purpose of requiring a court to hold an emergency hearing on motion of either
4 party to determine the legitimacy of a lease agreement for contested property in an
5 action alleging wrongful detainer of property; and generally relating to actions
6 alleging wrongful detainer of property.

7 BY repealing and reenacting, with amendments,

8 Article – Real Property

9 Section 14–132

10 Annotated Code of Maryland

11 (2015 Replacement Volume and 2017 Supplement)

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

14 **Article – Real Property**

15 14–132.

16 (a) In this section, “wrongful detainer” means to hold possession of real property
17 without the right of possession.

18 (b) This section does not apply if:

19 (1) The person in actual possession of the property has been granted
20 possession under a court order;

21 (2) A remedy is available under Title 8 of this article; or

22 (3) Any other exclusive means to recover possession is provided by statute

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 or rule.

2 (c) A person may not hold possession of property unless the person is entitled to
3 possession of the property under the law.

4 (d) (1) If a person violates subsection (c) of this section, a person claiming
5 possession may make complaint in writing to the District Court of the county in which the
6 property is located.

7 (2) On receipt of a complaint under paragraph (1) of this subsection, the
8 court shall summons immediately the person in possession to appear before the court on
9 the day specified in the summons to show cause, if any, why restitution of the possession of
10 the property to the person filing the complaint should not be made.

11 (3) If, for any reason, the person in actual possession cannot be found, the
12 person authorized to serve process by the Maryland Rules shall affix an attested copy of
13 the summons conspicuously on the property.

14 (4) If notice of the summons is sent to the person in possession by
15 first-class mail, the affixing of the summons in accordance with paragraph (3) of this
16 subsection shall constitute sufficient service to support restitution of possession.

17 **(E) ON MOTION OF EITHER PARTY, THE COURT SHALL HOLD AN**
18 **EMERGENCY HEARING TO DETERMINE THE LEGITIMACY OF A LEASE AGREEMENT**
19 **RELATED TO THE PROPERTY IN DISPUTE.**

20 ~~[(e)]~~ **(F)** A counterclaim or cross-claim may not be filed in an action brought
21 under this section.

22 ~~[(f)]~~ **(G)** (1) If the court determines that the complainant is legally entitled
23 to possession, the court shall:

24 (i) Give judgment for restitution of the possession of the property to
25 the complainant; and

26 (ii) Issue its warrant to the sheriff or constable commanding the
27 sheriff or constable to deliver possession to the complainant.

28 (2) The court may also give judgment in favor of the complainant for
29 damages due to the wrongful detainer and for court costs and attorney fees if:

30 (i) The complainant claimed damages in the complaint; and

31 (ii) The court finds that:

32 1. The person in actual possession was personally served
33 with the summons; or

1 2. There was service of process or submission to the
2 jurisdiction of the court as would support a judgment in contract or tort.

3 (3) A person in actual possession who is not personally served with a
4 summons is not subject to the personal jurisdiction of the District Court if the person
5 appears in response to the summons and prior to the time that evidence is taken by the
6 court and asserts that the appearance is only for the purpose of defending an in rem action.

7 **[(g)] (H)** (1) Not later than 10 days from the entry of the judgment of the
8 District Court, either party may appeal to the circuit court for the county in which the
9 property is located.

10 (2) The person in actual possession of the property may retain possession
11 until the determination of the appeal if the person:

12 (i) Files with the court an affidavit that the appeal is not taken for
13 delay; and

14 (ii) 1. Files sufficient bond with one or more securities
15 conditioned on diligent prosecution of the appeal; or

16 2. Pays to the complainant or into the appellate court:

17 A. The fair rental value of the property for the entire period
18 of possession up to the date of judgment;

19 B. All court costs in the case;

20 C. All losses or damages other than the fair rental value of
21 the property up to the day of judgment that the court determined to be due because of the
22 detention of possession; and

23 D. The fair rental value of the property during the pendency
24 of the appeal.

25 (3) On application of either party, the court shall set a hearing date for the
26 appeal that is not less than 5 days or more than 15 days after the application for appeal.

27 (4) Notice of the order for a hearing shall be served on the parties or the
28 parties' counsels not less than 5 days before the hearing.

29 **[(h)](I)** If the judgment of the circuit court shall be in favor of the person
30 claiming possession, a warrant shall be issued by the court to the sheriff, who shall proceed
31 immediately to execute the warrant.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect

1 October 1, 2018.