

SENATE BILL 443

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0lr2262
CF 0lr0428

By: **Senator Raskin**

Introduced and read first time: February 1, 2010

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Wrongful Detainer**

3 FOR the purpose of transferring and clarifying the application of certain provisions of
4 law regarding wrongful detainer of real property; clarifying the application of
5 certain other provisions of law relating to an action for possession; making
6 certain technical and conforming changes; and generally relating to the
7 applicability of certain provisions of law relating to wrongful possession of
8 property.

9 BY repealing and reenacting, with amendments,
10 Article – Real Property
11 Section 8–402.4 and 14–108.1
12 Annotated Code of Maryland
13 (2003 Replacement Volume and 2009 Supplement)

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

16 **Article – Real Property**

17 14–108.1.

18 (a) **(1) THIS SECTION APPLIES TO PROPERTY:**

19 **(i) LEASED FOR BUSINESS, COMMERCIAL,**
20 **MANUFACTURING, MERCANTILE, OR INDUSTRIAL PURPOSES, OR ANY OTHER**
21 **PURPOSE THAT IS NOT PRIMARILY RESIDENTIAL;**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(II) IMPROVED OR TO BE IMPROVED BY ANY APARTMENT,**
2 **CONDOMINIUM, COOPERATIVE, OR OTHER BUILDING FOR MULTIFAMILY USE OF**
3 **GREATER THAN FOUR DWELLING UNITS; OR**

4 **(III) LEASED FOR DWELLING UNITS OR MOBILE HOMES THAT**
5 **ARE ERECTED OR PLACED IN A MOBILE HOME DEVELOPMENT OR MOBILE HOME**
6 **PARK.**

7 **(2)** This section does not apply to:

8 **[(1)] (I)** A grantee action under § 14–109 of this subtitle;

9 **[(2)] (II)** A landlord–tenant action that is within the exclusive
10 original jurisdiction of the District Court; or

11 **[(3)] (III)** An action for nonpayment of ground rent under a ground
12 lease on residential property that is or was used, intended to be used, or authorized to
13 be used for four or fewer dwelling units.

14 (b) (1) A person who is not in possession of property and claims title and
15 right to possession **UNDER A GROUND LEASE** may bring an action for possession
16 against the person in possession of the property.

17 (2) Encumbrance of property by a mortgage or deed of trust to secure a
18 debt does not prevent an action under this section by the owner of the property.

19 (c) When personal jurisdiction is not obtained over the defendant, the
20 plaintiff may obtain a default judgment under the Maryland Rules only on proof of
21 title and right to possession. The judgment shall be in rem for possession of the
22 property. Entry and enforcement of the judgment does not bar further pursuit, in the
23 same or another action, of the plaintiff's claim for mesne profits and damages.

24 **[8–402.4.] 14–130.**

25 (a) In this [subtitle] **SECTION**, “wrongful detainer” means to hold possession
26 of [a] **REAL** property without the right of possession.

27 **(B) THIS SECTION DOES NOT APPLY IF:**

28 **(1) THE PERSON IN ACTUAL POSSESSION OF THE PROPERTY HAS**
29 **BEEN GRANTED POSSESSION UNDER A COURT ORDER;**

30 **(2) A REMEDY IS AVAILABLE UNDER TITLE 8 OF THIS ARTICLE;**
31 **OR**

1 **(3) ANY OTHER EXCLUSIVE MEANS TO RECOVER POSSESSION IS**
2 **PROVIDED BY STATUTE OR RULE.**

3 **[(b)] (C)** A person may not hold possession of property unless the person is
4 entitled to possession of the property under the law.

5 **[(c)] (D)** (1) If a person [other than a tenant holding over] violates
6 subsection **[(b)] (C)** of this section, a person claiming possession may make complaint
7 in writing to the District Court of the county in which the property is located.

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

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

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

18 **[(d)] (E)** A counterclaim or cross-claim may not be filed in an action
19 brought under this section.

20 **[(e)] (F)** (1) If the court determines that the complainant is legally
21 entitled to possession, the court shall:

22 (i) Give judgment for restitution of the possession of the
23 property to the complainant; and

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

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

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

29 (ii) The court finds that:

30 1. The person in actual possession was personally served
31 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
6 the court and asserts that the appearance is only for the purpose of defending an in
7 rem action.

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

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

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

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

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

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

20 B. All court costs in the case;

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

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

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

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

31 **[(g)] (H)** If the judgment of the circuit court shall be in favor of the
32 **[landlord] PERSON CLAIMING POSSESSION**, a warrant shall be issued by the court to
33 the sheriff, who shall proceed immediately to execute the warrant.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2010.