

HOUSE BILL 934

N1, D3

2lr1879

By: **Delegate Frush**

Introduced and read first time: February 10, 2012

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Residential Real Property – Landlord and Tenant – Procedures for**
3 **Conducting Eviction**

4 FOR the purpose of requiring, notwithstanding any other law, rule, or practice, a
5 sheriff, a constable, or any other law enforcement officer to be present when a
6 warrant of eviction to remove personal property from certain premises or to
7 exclude others from access to or use of the premises is executed; making
8 conforming changes; and generally relating to procedures for conducting a
9 residential rental property eviction.

10 BY repealing and reenacting, with amendments,
11 Article – Real Property
12 Section 8–401(d)(1)(i), 8–402(b)(2), and 8–402.1(b)(1)
13 Annotated Code of Maryland
14 (2010 Replacement Volume and 2011 Supplement)

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

17 **Article – Real Property**

18 8–401.

19 (d) (1) (i) **1.** Subject to the provisions of paragraph (2) of this
20 subsection, if judgment is given in favor of the landlord, and the tenant fails to comply
21 with the 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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 remove from the property, by force if necessary, all the furniture, implements, tools,
2 goods, effects or other chattels of every description whatsoever belonging to the tenant,
3 or to any person claiming or holding by or under said tenant.

4 **2. NOTWITHSTANDING ANY OTHER LAW, RULE, OR**
5 **PRACTICE, AFTER THE COURT GIVES JUDGMENT IN FAVOR OF THE LANDLORD**
6 **AND ISSUES THE WARRANT OF REPOSSESSION TO THE OFFICIAL OF THE COUNTY**
7 **ENTITLED TO SERVE PROCESS COMMANDING THE TENANT OR PERSON IN**
8 **POSSESSION TO DELIVER POSSESSION TO THE LANDLORD, THE SHERIFF, A**
9 **CONSTABLE, OR ANY OTHER LAW ENFORCEMENT OFFICER SHALL BE PRESENT**
10 **IF THE INSTRUCTIONS ACCOMPANYING THE WARRANT REQUIRE THE SHERIFF**
11 **TO REMOVE PERSONAL PROPERTY FROM THE PREMISES WHERE FOUND OR TO**
12 **EXCLUDE OTHERS FROM ACCESS TO OR USE OF THE PREMISES.**

13 8-402.

14 (b) (2) (i) If upon hearing the parties, or in case the tenant or person
15 in possession shall neglect to appear after the summons and continuance the court
16 shall find that the landlord had been in possession of the leased property, that the said
17 tenancy is fully ended and expired, that due notice to quit as aforesaid had been given
18 to the tenant or person in possession and that the tenant or person in possession had
19 refused so to do, the court shall thereupon give judgment for the restitution of the
20 possession of said premises and shall forthwith issue its warrant to the sheriff or a
21 constable in the respective counties commanding the tenant or person in possession
22 forthwith to deliver to the landlord possession thereof in as full and ample manner as
23 the landlord was possessed of the same at the time when the tenancy was made, and
24 shall give judgment for costs against the tenant or person in possession so holding
25 over.

26 (ii) **NOTWITHSTANDING ANY OTHER LAW, RULE, OR**
27 **PRACTICE, AFTER THE COURT GIVES JUDGMENT FOR THE RESTITUTION OF THE**
28 **POSSESSION OF THE PREMISES AND ISSUES ITS WARRANT TO THE SHERIFF OR**
29 **THE CONSTABLE COMMANDING THE TENANT OR PERSON IN POSSESSION TO**
30 **DELIVER POSSESSION TO THE LANDLORD, THE SHERIFF, THE CONSTABLE, OR**
31 **ANY OTHER LAW ENFORCEMENT OFFICER SHALL BE PRESENT IF THE**
32 **INSTRUCTIONS ACCOMPANYING THE WARRANT REQUIRE THE SHERIFF TO**
33 **REMOVE PERSONAL PROPERTY FROM THE PREMISES WHERE FOUND OR TO**
34 **EXCLUDE OTHERS FROM ACCESS TO OR USE OF THE PREMISES.**

35 (III) Either party shall have the right to appeal therefrom to the
36 circuit court for the county within ten days from the judgment.

37 [(iii)] (IV) If the tenant appeals and files with the District Court
38 an affidavit that the appeal is not taken for delay, and also a good and sufficient bond
39 with one or more securities conditioned that the tenant will prosecute the appeal with

1 effect and well and truly pay all rent in arrears and all costs in the case before the
2 District Court and in the appellate court and all loss or damage which the landlord
3 may suffer by reason of the tenant's holding over, including the value of the premises
4 during the time the tenant shall so hold over, then the tenant or person in possession
5 of said premises may retain possession thereof until the determination of said appeal.

6 ~~[(iv)]~~ **(v)** The appellate court shall, upon application of either
7 party, set a day for the hearing of the appeal, not less than five nor more than 15 days
8 after the application, and notice for the order for a hearing shall be served on the
9 opposite party or that party's counsel at least 5 days before the hearing.

10 ~~[(v)]~~ **(VI)** If the judgment of the District Court shall be in favor
11 of the landlord, a warrant shall be issued by the appellate court to the sheriff, who
12 shall proceed forthwith to execute the warrant.

13 8-402.1.

14 (b) (1) **(I)** If the court determines that the tenant breached the terms
15 of the lease and that the breach was substantial and warrants an eviction, the court
16 shall give judgment for the restitution of the possession of the premises and issue its
17 warrant to the sheriff or a constable commanding the tenant to deliver possession to
18 the landlord in as full and ample manner as the landlord was possessed of the same at
19 the time when the lease was entered into. The court shall give judgment for costs
20 against the tenant or person in possession.

21 **(II) NOTWITHSTANDING ANY OTHER LAW, RULE, OR**
22 **PRACTICE, AFTER THE COURT GIVES JUDGMENT FOR THE RESTITUTION OF THE**
23 **POSSESSION OF THE PREMISES AND ISSUES ITS WARRANT TO THE SHERIFF OR A**
24 **CONSTABLE COMMANDING THE TENANT OR PERSON IN POSSESSION TO DELIVER**
25 **POSSESSION TO THE LANDLORD, THE SHERIFF, THE CONSTABLE, OR ANY OTHER**
26 **LAW ENFORCEMENT OFFICER SHALL BE PRESENT IF THE INSTRUCTIONS**
27 **ACCOMPANYING THE WARRANT REQUIRE THE SHERIFF TO REMOVE PERSONAL**
28 **PROPERTY FROM THE PREMISES WHERE FOUND OR TO EXCLUDE OTHERS FROM**
29 **ACCESS TO OR USE OF THE PREMISES.**

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2012.