

Chapter 514

(Senate Bill 642)

AN ACT concerning

Residential ~~Real~~ Property – Prohibition on Nonjudicial Evictions

FOR the purpose of prohibiting ~~certain persons~~ a party claiming the right to possession from taking possession or threatening to take possession of residential property from a certain protected resident in a certain manner; establishing that ~~certain persons~~ a party claiming the right to possession may take possession of residential property from a certain protected resident only under certain circumstances; requiring a party claiming the right to possession to provide a certain notice in a certain manner under certain circumstances; prohibiting a landlord from taking possession or threatening to take possession of a dwelling unit from a tenant or tenant holding over in a certain manner; establishing that a landlord may take possession of a dwelling unit from a tenant or tenant holding over only under certain circumstances; prohibiting a mobile home park owner from taking possession or threatening to take possession of leased premises from a resident in a certain manner; establishing that a mobile home park owner may take possession of leased premises from a resident only under certain circumstances; providing certain remedies for a violation of this Act; providing that the remedies are not exclusive ~~and that certain persons may recover certain other damages under any other applicable law~~; defining certain terms; providing for the application of certain provisions of this Act; providing for the construction of certain provisions of this Act; stating the intent of the General Assembly; and generally relating to nonjudicial evictions.

BY adding to

Article – Real Property
Section 7–112, 8–216, and 8A–1102
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

Preamble

~~WHEREAS, The General Assembly has created numerous expedited court processes to assist owners of residential real property in quickly recovering possession of their properties with the assistance of the sheriff; and~~

~~WHEREAS, So called self help evictions in the residential context are inconsistent with human dignity and human rights and will lead to an increased potential for violent confrontations and sudden homelessness; and~~

~~WHEREAS, The General Assembly intends to supersede the ruling of the Court of Appeals of Maryland in Nickens v. Mount Vernon Realty Group, et al., 429 Md. 53 (2012), and abrogate any right to so-called self-help eviction that owners may possess in the context of residential foreclosures, tax sale foreclosures, landlord-tenant actions, and mobile home park actions; now, therefore,~~

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

Article – Real Property

7-112.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “PARTY CLAIMING THE RIGHT TO POSSESSION” MEANS A PERSON OR SUCCESSOR TO ANY PERSON WHO:

(I) DOES NOT HAVE ACTUAL POSSESSION OF A RESIDENTIAL PROPERTY; AND

(II) HAS OR CLAIMS TO HAVE A LEGAL RIGHT TO POSSESSION OF THE RESIDENTIAL PROPERTY:

1. BY THE TERMS OF A CONTRACT OR FORECLOSURE SALE; OR

2. UNDER A COURT ORDER, INCLUDING A COURT ORDER EXTINGUISHING A RIGHT OF REDEMPTION.

~~(2) (3) (I) “PROTECTED RESIDENT” MEANS A CURRENT AN OWNER OR FORMER OWNER, MORTGAGOR, OR GRANTOR, OR A TENANT OR ANOTHER PERSON CLAIMING UNDER A CURRENT OR FORMER OWNER, MORTGAGOR, GRANTOR, OR TENANT, WHO IS RESIDING IN ACTUAL POSSESSION OF RESIDENTIAL PROPERTY.~~

(II) “PROTECTED RESIDENT” INCLUDES A GRANTEE, TENANT, SUBTENANT, OR OTHER PERSON IN ACTUAL POSSESSION BY, THROUGH, OR UNDER AN OWNER OR FORMER OWNER OF RESIDENTIAL PROPERTY.

(III) "PROTECTED RESIDENT" DOES NOT INCLUDE A TRESPASSER OR SQUATTER.

~~(3)~~ (4) "RESIDENTIAL PROPERTY" MEANS A BUILDING, STRUCTURE, OR PORTION OF A BUILDING OR STRUCTURE THAT IS OCCUPIED, DESIGNED, OR INTENDED FOR OCCUPANCY AS A RESIDENCE BY ONE OR MORE FAMILIES DESIGNED PRINCIPALLY AND IS INTENDED FOR HUMAN HABITATION.

(5) "THREATEN TO TAKE POSSESSION" MEANS USING WORDS OR ACTIONS INTENDED TO CONVINCE A REASONABLE PERSON THAT A PARTY CLAIMING THE RIGHT TO POSSESSION INTENDS TO TAKE IMMINENT POSSESSION OF RESIDENTIAL PROPERTY IN VIOLATION OF THIS SECTION.

(6) "WILLFUL DIMINUTION OF SERVICES" MEANS INTENTIONALLY INTERRUPTING OR CAUSING THE INTERRUPTION OF HEAT, RUNNING WATER, HOT WATER, ELECTRICITY, OR GAS BY A PARTY CLAIMING THE RIGHT TO POSSESSION FOR THE PURPOSE OF FORCING A PROTECTED RESIDENT TO ABANDON RESIDENTIAL PROPERTY.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A SECURED PARTY, FORECLOSURE SALE PURCHASER, PLAINTIFF IN A TAX SALE FORECLOSURE UNDER TITLE 14 OF THE TAX PROPERTY ARTICLE, OR A SUCCESSOR TO A SECURED PARTY, FORECLOSURE SALE PURCHASER, OR PLAINTIFF IN A TAX SALE FORECLOSURE PARTY CLAIMING THE RIGHT TO POSSESSION MAY NOT TAKE POSSESSION OR THREATEN TO TAKE POSSESSION OF RESIDENTIAL PROPERTY FROM A PROTECTED RESIDENT BY LOCKING:

(I) LOCKING THE RESIDENT OUT OR ANY OTHER ACTION, INCLUDING WILLFUL DIMINUTION OF SERVICES TO THE PROTECTED RESIDENT BY INTERRUPTING OR CAUSING THE INTERRUPTION OF HEAT, RUNNING WATER, HOT WATER, ELECTRICITY, GAS, OR OTHER ESSENTIAL SERVICES OF THE RESIDENTIAL PROPERTY;

(II) ENGAGING IN WILLFUL DIMINUTION OF SERVICES TO THE PROTECTED RESIDENT; OR

(III) TAKING ANY OTHER ACTION THAT DEPRIVES THE PROTECTED RESIDENT OF ACTUAL POSSESSION.

~~(2) A SECURED PARTY, FORECLOSURE SALE PURCHASER, PLAINTIFF IN A TAX SALE FORECLOSURE UNDER TITLE 14 OF THE TAX PROPERTY ARTICLE, OR A SUCCESSOR TO A SECURED PARTY, FORECLOSURE~~

~~SALE PURCHASER, OR PLAINTIFF IN A TAX SALE FORECLOSURE (I)~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A PARTY CLAIMING THE RIGHT TO POSSESSION MAY TAKE POSSESSION OF RESIDENTIAL PROPERTY FROM A PROTECTED RESIDENT ONLY:

~~(I) IN~~ IN ACCORDANCE WITH A WRIT OF POSSESSION ISSUED BY A COURT AND EXECUTED BY A SHERIFF OR CONSTABLE;~~OR.~~

~~(II) IF THE PROTECTED RESIDENT HAS ABANDONED OR SURRENDERED POSSESSION OF THE PROPERTY~~ A PARTY CLAIMING THE RIGHT TO POSSESSION OF RESIDENTIAL PROPERTY MAY USE NONJUDICIAL SELF-HELP TO TAKE POSSESSION OF THE PROPERTY, IF THE PARTY:

1. REASONABLY BELIEVES THE PROTECTED RESIDENT HAS ABANDONED OR SURRENDERED POSSESSION OF THE PROPERTY BASED ON A REASONABLE INQUIRY INTO THE OCCUPANCY STATUS OF THE PROPERTY;

2. PROVIDES NOTICE AS PROVIDED IN SUBSECTION (C) OF THIS SECTION; AND

3. RECEIVES NO RESPONSIVE COMMUNICATION TO THAT NOTICE WITHIN 15 DAYS AFTER THE LATER OF POSTING OR MAILING THE NOTICE AS REQUIRED BY SUBSECTION (C) OF THIS SECTION.

(C) (1) IF A PARTY CLAIMING THE RIGHT TO POSSESSION OF RESIDENTIAL PROPERTY REASONABLY BELIEVES, BASED ON A REASONABLE INQUIRY INTO THE OCCUPANCY STATUS OF THE PROPERTY, THAT ALL PROTECTED RESIDENTS HAVE ABANDONED OR SURRENDERED POSSESSION OF THE RESIDENTIAL PROPERTY, THE PARTY CLAIMING THE RIGHT TO POSSESSION MAY POST ON THE FRONT DOOR OF THE RESIDENTIAL PROPERTY AND MAIL BY FIRST-CLASS MAIL ADDRESSED TO "ALL OCCUPANTS" AT THE ADDRESS OF THE RESIDENTIAL PROPERTY A WRITTEN NOTICE IN SUBSTANTIALLY THE FOLLOWING FORM:

"IMPORTANT NOTICE ABOUT EVICTION

A PERSON WHO CLAIMS THE RIGHT TO POSSESS THIS PROPERTY BELIEVES THAT THIS PROPERTY IS ABANDONED. IF YOU ARE CURRENTLY RESIDING IN THE PROPERTY, YOU MUST IMMEDIATELY CONTACT:

NAME

ADDRESS

TELEPHONE

DATE OF THIS NOTICE

IF YOU DO NOT CONTACT THE PERSON LISTED ABOVE WITHIN 15 DAYS AFTER THE DATE OF THIS NOTICE, THE PERSON CLAIMING POSSESSION MAY CONSIDER THE PROPERTY ABANDONED AND SEEK TO SECURE THE PROPERTY, INCLUDING CHANGING THE LOCKS WITHOUT A COURT ORDER.”.

(2) THE WRITTEN NOTICE REQUIRED BY THIS SUBSECTION SHALL BE:

(I) A SEPARATE DOCUMENT; AND

(II) PRINTED IN AT LEAST 12 POINT TYPE.

(3) THE OUTSIDE OF THE ENVELOPE CONTAINING THE MAILED WRITTEN NOTICE REQUIRED BY THIS SUBSECTION SHALL STATE, ON THE ADDRESS SIDE, IN BOLD, CAPITAL LETTERS IN AT LEAST 12 POINT TYPE, THE FOLLOWING: “IMPORTANT NOTICE TO ALL OCCUPANTS: EVICTION INFORMATION ENCLOSED; OPEN IMMEDIATELY.”.

~~(c)~~ (D) (1) IF IN ANY PROCEEDING THE COURT FINDS THAT A SECURED PARTY, FORECLOSURE SALE PURCHASER, PLAINTIFF IN A TAX SALE FORECLOSURE UNDER TITLE 14 OF THE TAX – PROPERTY ARTICLE, OR A SUCCESSOR TO A SECURED PARTY, FORECLOSURE SALE PURCHASER, OR PLAINTIFF IN A TAX SALE PARTY CLAIMING THE RIGHT TO POSSESSION VIOLATED SUBSECTION (B) OF THIS SECTION, THE PROTECTED RESIDENT MAY RECOVER:

(I) POSSESSION OF THE PROPERTY, IF NO OTHER PERSON THEN RESIDES IN THE PROPERTY;

(II) ~~THREE TIMES ACTUAL~~ ACTUAL DAMAGES; AND

(III) REASONABLE ATTORNEY’S FEES AND COSTS.

(2) ~~(H)~~ THE REMEDIES SET FORTH IN THIS SUBSECTION ARE NOT EXCLUSIVE.

~~(H) A PROTECTIVE RESIDENT OR ANY PERSON CLAIMING UNDER A PROTECTED RESIDENT MAY RECOVER ANY OTHER ACTUAL OR CONSEQUENTIAL DAMAGES AVAILABLE UNDER ANY OTHER APPLICABLE LAW.~~

(E) THIS SECTION DOES NOT APPLY IF THE PARTIES ARE GOVERNED BY TITLE 8, SUBTITLE 2, OR TITLE 8A OF THIS ARTICLE.

8-216.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “THREATEN TO TAKE POSSESSION” MEANS USING WORDS OR ACTIONS INTENDED TO CONVINCЕ A REASONABLE PERSON THAT THE LANDLORD INTENDS TO TAKE IMMEDIATE POSSESSION OF THE PROPERTY IN VIOLATION OF THIS SECTION.

(3) (I) “WILLFUL DIMINUTION OF SERVICES” MEANS INTENTIONALLY INTERRUPTING OR CAUSING THE INTERRUPTION OF HEAT, RUNNING WATER, HOT WATER, ELECTRICITY, OR GAS BY THE LANDLORD FOR THE PURPOSE OF FORCING A TENANT TO ABANDON THE PROPERTY.

(II) “WILLFUL DIMINUTION OF SERVICES” DOES NOT INCLUDE A LANDLORD CHOOSING NOT TO CONTINUE TO PAY FOR UTILITY SERVICE FOR RESIDENTIAL PROPERTY AFTER A FINAL COURT ORDER AWARDING POSSESSION OF THE RESIDENTIAL PROPERTY, IF THE LANDLORD HAS PROVIDED THE TENANT REASONABLE NOTICE OF THE LANDLORD’S INTENTION AND THE OPPORTUNITY FOR THE TENANT TO OPEN AN ACCOUNT IN THE TENANT’S NAME FOR THAT SERVICE.

~~(A) (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A LANDLORD MAY NOT TAKE POSSESSION OR THREATEN TO TAKE POSSESSION OF A DWELLING UNIT FROM A TENANT OR TENANT HOLDING OVER BY LOCKING THE TENANT OUT OR ANY OTHER ACTION, INCLUDING WILLFUL DIMINUTION OF SERVICES TO THE TENANT BY INTERRUPTING OR CAUSING THE INTERRUPTION OF HEAT, RUNNING WATER, HOT WATER, ELECTRICITY, GAS, OR OTHER ESSENTIAL SERVICES.~~

(2) A LANDLORD MAY TAKE POSSESSION OF A DWELLING UNIT FROM A TENANT OR TENANT HOLDING OVER ONLY:

(I) IN ACCORDANCE WITH A WARRANT OF RESTITUTION ISSUED BY A COURT AND EXECUTED BY A SHERIFF OR CONSTABLE; OR

(II) IF THE TENANT HAS ABANDONED OR SURRENDERED POSSESSION OF THE DWELLING UNIT.

~~(B)~~ (C) (1) IF IN ANY PROCEEDING THE COURT FINDS IN FAVOR OF THE TENANT BECAUSE THE LANDLORD VIOLATED SUBSECTION ~~(A)~~ (B) OF THIS SECTION, THE TENANT MAY RECOVER:

(I) ~~RECOVER POSSESSION OF THE PROPERTY OR TERMINATE THE LEASE AGREEMENT;~~

~~(II) RECOVER THE GREATER OF THREE TIMES ACTUAL ACTUAL DAMAGES OR THREE MONTHS' PERIODIC RENT; AND~~

~~(III)~~ (II) ~~RECOVER~~ REASONABLE REASONABLE ATTORNEY'S FEES AND COSTS.

(2) ~~(A)~~ THE REMEDIES SET FORTH IN THIS SUBSECTION ARE NOT EXCLUSIVE.

~~(II) A TENANT OR ANY PERSON CLAIMING UNDER A TENANT MAY RECOVER ANY OTHER ACTUAL OR CONSEQUENTIAL DAMAGES AVAILABLE UNDER ANY OTHER APPLICABLE LAW.~~

(D) THIS SECTION MAY NOT BE CONSTRUED TO PREVENT A LANDLORD FROM TAKING TEMPORARY MEASURES, INCLUDING CHANGING THE LOCKS, TO SECURE AN UNSECURED RESIDENTIAL PROPERTY, IF THE LANDLORD MAKES GOOD FAITH ATTEMPTS TO PROVIDE REASONABLE NOTICE TO THE TENANT THAT THE TENANT MAY PROMPTLY BE RESTORED TO POSSESSION OF THE PROPERTY.

8A-1102.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "THREATEN TO TAKE POSSESSION" MEANS USING WORDS OR ACTIONS INTENDED TO CONVINCE A REASONABLE PERSON THAT THE PARK OWNER INTENDS TO TAKE IMMINENT POSSESSION OF THE LEASED PREMISES IN VIOLATION OF THIS SECTION.

(3) (I) “WILLFUL DIMINUTION OF SERVICES” MEANS INTENTIONALLY INTERRUPTING OR CAUSING THE INTERRUPTION OF HEAT, RUNNING WATER, HOT WATER, ELECTRICITY, OR GAS BY THE PARK OWNER FOR THE PURPOSE OF FORCING A RESIDENT TO ABANDON THE PROPERTY.

(II) “WILLFUL DIMINUTION OF SERVICES” DOES NOT INCLUDE A PARK OWNER CHOOSING NOT TO CONTINUE TO PAY FOR UTILITY SERVICE FOR THE LEASED PREMISES AFTER A FINAL COURT ORDER AWARDING POSSESSION OF THE LEASED PREMISES, IF THE PARK OWNER HAS PROVIDED THE RESIDENT REASONABLE NOTICE OF THE OWNER’S INTENTION AND THE OPPORTUNITY FOR THE RESIDENT TO OPEN AN ACCOUNT IN THE RESIDENT’S NAME FOR THAT SERVICE.

~~**(A) (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PARK OWNER MAY NOT TAKE POSSESSION OR THREATEN TO TAKE POSSESSION OF LEASED PREMISES FROM A RESIDENT OR RESIDENT HOLDING OVER BY LOCKING THE RESIDENT OUT OR ANY OTHER ACTION, INCLUDING WILLFUL DIMINUTION OF SERVICES TO THE RESIDENT BY INTERRUPTING OR CAUSING THE INTERRUPTION OF HEAT, RUNNING WATER, HOT WATER, ELECTRICITY, GAS, OR OTHER ESSENTIAL SERVICES.**~~

(2) A PARK OWNER MAY TAKE POSSESSION OF LEASED PREMISES FROM A RESIDENT OR RESIDENT HOLDING OVER ONLY:

(I) IN ACCORDANCE WITH A WARRANT OF RESTITUTION ISSUED BY A COURT AND EXECUTED BY A SHERIFF OR CONSTABLE; OR

(II) IF THE RESIDENT HAS ABANDONED OR SURRENDERED POSSESSION OF THE LEASED PREMISES.

~~**(B) (C) (1) IF IN ANY PROCEEDING THE COURT FINDS IN FAVOR OF THE RESIDENT BECAUSE THE PARK OWNER VIOLATED SUBSECTION (A) (B) OF THIS SECTION, THE RESIDENT MAY RECOVER:**~~

~~**(I) RECOVER POSSESSION OF THE LEASED PREMISES OR TERMINATE THE RENTAL AGREEMENT;**~~

~~**(II) RECOVER THE GREATER OF THREE TIMES ACTUAL DAMAGES OR THREE MONTHS’ PERIODIC RENT; AND**~~

~~**(III) (II) RECOVER REASONABLE REASONABLE ATTORNEY’S FEES AND COSTS.**~~

(2) ~~(1)~~ THE REMEDIES SET FORTH IN THIS SUBSECTION ARE NOT EXCLUSIVE.

~~(H) A RESIDENT OR ANY PERSON CLAIMING UNDER A RESIDENT MAY RECOVER ANY OTHER ACTUAL OR CONSEQUENTIAL DAMAGES AVAILABLE UNDER ANY OTHER APPLICABLE LAW.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is intended to supersede the ruling of the Court of Appeals of Maryland in Nickens v. Mount Vernon Realty Group, et al., 429 Md. 53 (2012) and modify any right to self-help eviction that certain persons may possess in the context of residential foreclosures, tax sale foreclosures, landlord-tenant actions, and mobile home park actions.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2013.

Approved by the Governor, May 16, 2013.