

HOUSE BILL 164

E1, N1

5lr0889

(PRE-FILED)

By: ~~Delegate Conaway~~ Delegates Conaway, Nawrocki, Holmes, Addison, Cardin, Schmidt, Phillips, Stinnett, Arikan, Grammer, Sample-Hughes, and Kaufman

Requested: September 18, 2024

Introduced and read first time: January 8, 2025

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 5, 2025

CHAPTER _____

1 AN ACT concerning

2 ~~Criminal Law – Fraud – Possession of Residential Real Property~~
3 Real Property – Wrongful Detainer – Time of Hearing and Service of Process

4 FOR the purpose of ~~prohibiting a person from possessing or claiming a right to possess~~
5 ~~residential real property the person does not lawfully possess or own, with the intent~~
6 ~~to defraud another; authorizing the owner of certain residential real property to file~~
7 ~~a certain sworn affidavit and requiring a sheriff to remove a certain person from~~
8 ~~residential real property under certain circumstances; providing this Act does not~~
9 ~~prohibit the owner of residential real property from filing a wrongful detainer action;~~
10 ~~and generally relating to fraudulent possession of residential real property requiring~~
11 a certain hearing to be held within a certain time after a certain complaint is filed;
12 altering requirements relating to service of process in a wrongful detainer action;
13 and generally relating to wrongful detainer.

14 BY ~~adding to~~ repealing and reenacting, with amendments,
15 Article – ~~Criminal Law~~ Real Property
16 Section ~~8-906~~ 14-132
17 Annotated Code of Maryland
18 ~~(2021)~~ (2023 Replacement Volume and 2024 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~Article Criminal Law~~~~§ 906.~~

~~(A) A PERSON MAY NOT, WITH INTENT TO DEFRAUD ANOTHER, POSSESS OR CLAIM A RIGHT TO POSSESS RESIDENTIAL REAL PROPERTY THE PERSON DOES NOT LAWFULLY POSSESS OR OWN.~~

~~(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:~~

~~(1) FOR A FIRST VIOLATION, IMPRISONMENT NOT EXCEEDING 90 DAYS OR A FINE NOT EXCEEDING \$500 OR BOTH;~~

~~(2) FOR A SECOND VIOLATION OCCURRING WITHIN 2 YEARS AFTER THE FIRST VIOLATION, IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$1,000 OR BOTH; AND~~

~~(3) FOR EACH SUBSEQUENT VIOLATION OCCURRING WITHIN 2 YEARS AFTER THE PRECEDING VIOLATION, IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$2,500 OR BOTH.~~

~~(C) (1) THIS SUBSECTION DOES NOT APPLY IF:~~

~~(I) THE PERSON IN ACTUAL POSSESSION OF THE RESIDENTIAL REAL PROPERTY HAS BEEN GRANTED POSSESSION UNDER A COURT ORDER; OR~~

~~(II) A REMEDY IS AVAILABLE UNDER TITLE 8 OF THE REAL PROPERTY ARTICLE.~~

~~(2) THE OWNER OF RESIDENTIAL REAL PROPERTY IN THE POSSESSION OF ANOTHER ALLEGEDLY IN VIOLATION OF SUBSECTION (A) OF THIS SECTION MAY SUBMIT A SWORN AFFIDAVIT TO THE SHERIFF FOR A COUNTY IN WHICH THE PROPERTY IS LOCATED STATING THAT THE PERSON IS FRAUDULENTLY IN POSSESSION OF THE PROPERTY.~~

~~(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A SHERIFF SHALL REMOVE A PERSON IN POSSESSION OF RESIDENTIAL REAL PROPERTY AFTER RECEIVING AN AFFIDAVIT SUBMITTED UNDER PARAGRAPH (2) OF THIS SUBSECTION AND RETURN POSSESSION OF THE PROPERTY TO THE OWNER.~~

~~(II) A DEPUTY SHERIFF MAY NOT REMOVE A PERSON IN POSSESSION OF RESIDENTIAL REAL PROPERTY FOLLOWING THE FILING OF AN~~

~~AFFIDAVIT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IF THE PERSON IN POSSESSION PRODUCES EVIDENCE OF LAWFUL POSSESSION OF THE PROPERTY TO THE LAW ENFORCEMENT OFFICER.~~

~~(D) THIS SECTION DOES NOT PROHIBIT THE OWNER OF RESIDENTIAL REAL PROPERTY FROM FILING A SUIT UNDER § 14-132 OF THE REAL PROPERTY ARTICLE.~~

Article – Real Property

14–132.

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

(b) This section does not apply if:

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

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

(3) Any other exclusive means to recover possession is provided by statute or rule.

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

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

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

(II) A HEARING SCHEDULED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE HELD NOT MORE THAN 14 CALENDAR DAYS AFTER THE COMPLAINT IS FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) If, for any reason, the person in actual possession cannot be found AFTER TWO GOOD FAITH EFFORTS ON DIFFERENT DAYS, the person authorized to serve process by the Maryland Rules shall [affix]:

(I) FILE AN AFFIDAVIT WITH THE COURT DESCRIBING THE GOOD FAITH EFFORTS TO SERVE THE PERSON IN ACTUAL POSSESSION;

(II) MAIL A COPY OF THE COMPLAINT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND FIRST-CLASS MAIL TO THE LAST KNOWN ADDRESS OF THE PERSON IN ACTUAL POSSESSION AND, IF DIFFERENT, TO THE ADDRESS OF THE RESIDENTIAL PROPERTY SUBJECT TO THE COMPLAINT; AND

(III) AFFIX an attested copy of the summons conspicuously on the property.

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

(5) SERVICE SHALL BE MADE UNDER PARAGRAPHS (3) AND (4) OF THIS SUBSECTION WITHIN 4 BUSINESS DAYS AFTER THE COMPLAINT IS FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(e) A counterclaim or cross-claim may not be filed in an action brought under this section.

(f) (1) If the court determines that the complainant is legally entitled to possession, the court shall:

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

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

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

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

(ii) The court finds that:

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

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

(3) A person in actual possession who is not personally served with a summons is not subject to the personal jurisdiction of the District Court if the person

appears in response to the summons and prior to the time that evidence is taken by the court and asserts that the appearance is only for the purpose of defending an in rem action.

(g) Subject to § 8–118.1 of this article, a party to a wrongful detainer action brought in the District Court under this section may demand a trial by jury in accordance with Title 8, Subtitle 6 of this article.

(h) (1) Not later than 10 days from the entry of the judgment of the District Court, either party may appeal to the circuit court for the county in which the property is located.

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

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

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

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

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

B. All court costs in the case;

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

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

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

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

(i) If the judgment of the circuit court shall be in favor of the person claiming possession, a warrant shall be issued by the court to the sheriff, who shall proceed immediately to execute the warrant.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2025.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.