

HOUSE BILL 92

N1

(PRE-FILED)

3lr0509
CF 3lr1199

By: **Delegate Holmes**

Requested: October 5, 2022

Introduced and read first time: January 11, 2023

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Ground Leases – Collection of Rent, Interest, Fees, and Other Expenses –**
3 **Registration Requirements**

4 FOR the purpose of establishing that ground leases and amendments that are not posted
5 on the State Department of Assessments and Taxation’s website are not considered
6 registered; prohibiting a ground lease holder from collecting or attempting to collect
7 rent, late fees, interest, collection costs, and other expenses related to a ground lease
8 unless the ground lease is registered with the Department; establishing a process
9 within the Department to render decisions on the legality of efforts by a ground lease
10 holder to collect rent, late fees, interest, collection costs, and other expenses;
11 authorizing a ground lease holder or leasehold tenant to file suit in circuit court for
12 a certain judicial determination following a decision by the Department; requiring
13 the Department to develop and make available certain forms and post a certain
14 notice on its website; and generally relating to ground leases.

15 BY repealing and reenacting, with amendments,
16 Article – Real Property
17 Section 8–703 and 8–707
18 Annotated Code of Maryland
19 (2015 Replacement Volume and 2022 Supplement)

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

22 **Article – Real Property**

23 8–703.

24 (a) (1) The Department shall maintain an online registry of all properties that
25 are subject to ground leases.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) The online registry shall:

2 (i) Identify properties for which a renewal notice to preserve the
3 irredeemability of an irredeemable ground lease has been filed; and

4 (ii) Include a clear notation of the expiration date for each renewal
5 notice.

6 (b) **A GROUND LEASE OR AN AMENDMENT IS NOT REGISTERED UNTIL THE**
7 **GROUND LEASE OR AMENDMENT IS POSTED ON THE ONLINE REGISTRY.**

8 (c) The Department is not responsible for the completeness or accuracy of the
9 contents of the online registry.

10 8-707.

11 (A) If a ground lease is not registered in accordance with this subtitle, the ground
12 lease holder may not:

13 (1) Collect **OR ATTEMPT TO COLLECT** any ground rent payments [due
14 under], **LATE FEES, INTEREST, COLLECTION COSTS, OR OTHER EXPENSES RELATED**
15 **TO** the ground lease;

16 (2) Bring a civil action against the leasehold tenant to enforce any rights
17 the ground lease holder may have under the ground lease; or

18 (3) Bring an action against the leasehold tenant under Subtitle 8 of this
19 title.

20 (B) (1) **A LEASEHOLD TENANT WHO BELIEVES THAT A GROUND LEASE**
21 **HOLDER HAS COLLECTED OR ATTEMPTED TO COLLECT GROUND RENT PAYMENT,**
22 **LATE FEES, INTEREST, COLLECTION COSTS, OR OTHER EXPENSES RELATED TO THE**
23 **GROUND LEASE IN VIOLATION OF SUBSECTION (A)(1) OF THIS SECTION MAY SUBMIT**
24 **TO THE DEPARTMENT AN AFFIDAVIT STATING THE FACTUAL BASIS FOR THE**
25 **LEASEHOLD TENANT'S BELIEF AND ANY DOCUMENTS IN SUPPORT OF THE**
26 **AFFIDAVIT.**

27 (2) **ON RECEIPT OF AN AFFIDAVIT AND ANY SUPPORTING**
28 **DOCUMENTS SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE**
29 **DEPARTMENT SHALL SEND NOTICE TO THE GROUND LEASE HOLDER THAT IS THE**
30 **SUBJECT OF THE SUBMISSION STATING THAT:**

1 **(I) THE DEPARTMENT HAS RECEIVED A SUBMISSION**
2 **ALLEGING THAT THE GROUND LEASE HOLDER HAS VIOLATED SUBSECTION (A)(1) OF**
3 **THIS SECTION; AND**

4 **(II) THE RELEVANT GROUND LEASE REGISTRATION OR**
5 **AMENDMENT SUBMITTED TO THE DEPARTMENT BY THE GROUND LEASE HOLDER**
6 **FOR THE PROPERTY IN QUESTION MAY BE VOIDED IN THE DEPARTMENT'S RECORDS**
7 **UNLESS, WITHIN 45 DAYS AFTER THE NOTICE, THE GROUND LEASE HOLDER SUBMITS**
8 **TO THE DEPARTMENT A COUNTER-AFFIDAVIT AND ANY DOCUMENTS IN SUPPORT OF**
9 **THE COUNTER-AFFIDAVIT THAT SETS FORTH THE GROUND LEASE HOLDER'S BELIEF**
10 **THAT ANY COLLECTION OR ATTEMPTED COLLECTION DESCRIBED IN THE AFFIDAVIT**
11 **DID NOT VIOLATE SUBSECTION (A)(1) OF THIS SECTION AND THE FACTUAL BASIS**
12 **FOR THAT BELIEF.**

13 **(3) NOTICE SENT TO THE GROUND LEASE HOLDER UNDER**
14 **PARAGRAPH (2) OF THIS SUBSECTION SHALL:**

15 **(I) BE SENT BY CERTIFIED MAIL, RETURN RECEIPT**
16 **REQUESTED, AND BY FIRST-CLASS MAIL TO THE ADDRESS PROVIDED IN THE**
17 **GROUND LEASE HOLDER'S GROUND LEASE REGISTRATION OR AMENDMENT, OR TO**
18 **ANY OTHER ADDRESS USED BY THE GROUND LEASE HOLDER KNOWN TO THE**
19 **DEPARTMENT; AND**

20 **(II) INCLUDE A COPY OF THE AFFIDAVIT AND ANY SUPPORTING**
21 **DOCUMENTS SUBMITTED BY THE LEASEHOLD TENANT TO THE DEPARTMENT.**

22 **(C) (1) IF, AFTER REVIEWING ANY AFFIDAVITS, TIMELY SUBMITTED**
23 **COUNTER-AFFIDAVITS, AND ANY SUPPORTING DOCUMENTS, THE DEPARTMENT**
24 **REASONABLY BELIEVES THAT THE GROUND LEASE HOLDER VIOLATED SUBSECTION**
25 **(A)(1) OF THIS SECTION, THE DEPARTMENT MAY MAKE A FINAL DECISION.**

26 **(2) FOLLOWING A DECISION MADE UNDER PARAGRAPH (1) OF THIS**
27 **SUBSECTION, THE DEPARTMENT SHALL PROMPTLY SEND TO ALL PERSONS WHO**
28 **SUBMITTED AFFIDAVITS AND COUNTER-AFFIDAVITS NOTICE OF THE DECISION.**

29 **(3) NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION**
30 **SHALL:**

31 **(I) BE SENT BY CERTIFIED MAIL, RETURN RECEIPT**
32 **REQUESTED, AND BY FIRST-CLASS MAIL; AND**

33 **(II) STATE THAT THE DEPARTMENT:**

1 **1. REASONABLY BELIEVES THAT THE GROUND LEASE**
2 **HOLDER HAS VIOLATED SUBSECTION (A)(1) OF THIS SECTION; AND**

3 **2. MAY VOID A RELEVANT GROUND LEASE**
4 **REGISTRATION OR AMENDMENT IN THE DEPARTMENT'S RECORDS UNLESS, WITHIN**
5 **45 DAYS AFTER THE DATE OF THE NOTICE, THE GROUND LEASE HOLDER FILES AN**
6 **ACTION IN THE CIRCUIT COURT UNDER SUBSECTION (E) OF THIS SECTION.**

7 **(D) (1) IF, AFTER REVIEWING ANY AFFIDAVITS, TIMELY SUBMITTED**
8 **COUNTER-AFFIDAVITS, AND SUPPORTING DOCUMENTS, THE DEPARTMENT**
9 **REASONABLY BELIEVES THAT THE GROUND LEASE HOLDER DID NOT VIOLATE**
10 **SUBSECTION (A)(1) OF THIS SECTION, THE DEPARTMENT SHALL PROMPTLY SEND**
11 **TO ALL PERSONS WHO SUBMITTED AFFIDAVITS OR TIMELY FILED**
12 **COUNTER-AFFIDAVITS NOTICE OF THE DECISION.**

13 **(2) NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION**
14 **SHALL:**

15 **(I) BE SENT BY CERTIFIED MAIL, RETURN RECEIPT**
16 **REQUESTED, AND BY FIRST-CLASS MAIL; AND**

17 **(II) STATE THAT:**

18 **1. THE DEPARTMENT REASONABLY BELIEVES THAT THE**
19 **GROUND LEASE HOLDER DID NOT VIOLATE SUBSECTION (A)(1) OF THIS SECTION;**
20 **AND**

21 **2. THE DEPARTMENT WILL TAKE NO FURTHER ACTION**
22 **UNLESS, WITHIN 45 DAYS AFTER THE DATE OF THE NOTICE, THE LEASEHOLD**
23 **TENANT FILES AN ACTION IN THE CIRCUIT COURT UNDER SUBSECTION (E) OF THIS**
24 **SECTION.**

25 **(E) (1) FOLLOWING NOTICE OF A FINAL DECISION BY THE DEPARTMENT**
26 **MADE UNDER THIS SECTION, A GROUND LEASE HOLDER OR A LEASEHOLD TENANT**
27 **MAY FILE AN ACTION IN THE CIRCUIT COURT.**

28 **(2) AN ACTION FILED UNDER THIS SUBSECTION SHALL BE FILED:**

29 **(I) WITHIN 45 DAYS AFTER THE DATE OF NOTICE BY THE**
30 **DEPARTMENT; AND**

31 **(II) 1. IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH**
32 **THE PETITIONER RESIDES; OR**

1 **2. IF THE PERSON DOES NOT RESIDE IN THE STATE, IN**
2 **THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE PROPERTY SUBJECT TO THE**
3 **GROUND LEASE IS LOCATED.**

4 **(3) AN ACTION FILED UNDER THIS SUBSECTION SHALL BE HEARD DE**
5 **NOVO BY THE CIRCUIT COURT.**

6 **(4) EACH PERSON WHO WAS SENT A NOTICE UNDER SUBSECTION (C)**
7 **OR (D) OF THIS SECTION SHALL BE A PARTY TO AN ACTION FILED UNDER THIS**
8 **SUBSECTION.**

9 **(5) THE DEPARTMENT MAY NOT BE JOINED AS A PARTY IN AN ACTION**
10 **UNDER THIS SUBSECTION.**

11 **(F) (1) IF A COURT DETERMINES THAT A GROUND LEASE HOLDER HAS**
12 **VIOLATED SUBSECTION (A)(1) OF THIS SECTION:**

13 **(i) THE COURT SHALL ENTER AN ORDER REQUIRING THE**
14 **DEPARTMENT TO VOID THE APPROPRIATE GROUND LEASE REGISTRATION OR**
15 **AMENDMENT IN THE DEPARTMENT'S RECORDS;**

16 **(ii) THE PREVAILING PARTY SHALL PROVIDE A COPY OF THE**
17 **ORDER TO THE DEPARTMENT; AND**

18 **(iii) THE DEPARTMENT SHALL PROMPTLY VOID THE**
19 **REGISTRATION OR AMENDMENT AND ENTER A NOTATION IN THE DEPARTMENT'S**
20 **RECORDS THAT THE RELEVANT GROUND LEASE REGISTRATION OR AMENDMENT IS**
21 **VOID UNDER A COURT ORDER.**

22 **(2) IF A COURT DETERMINES THAT THE GROUND LEASE HOLDER HAS**
23 **NOT VIOLATED SUBSECTION (A)(1) OF THIS SECTION:**

24 **(i) THE COURT SHALL ENTER AN ORDER FINDING THAT THE**
25 **COLLECTION OR ATTEMPTED COLLECTION THAT WAS THE SUBJECT OF THE**
26 **COMPLAINT WAS NOT UNLAWFUL; AND**

27 **(ii) THE PREVAILING PARTY SHALL PROVIDE A COPY OF THE**
28 **ORDER TO THE DEPARTMENT.**

29 **(G) (1) A GROUND LEASE HOLDER OR LEASEHOLD TENANT WHO FILES AN**
30 **ACTION UNDER SUBSECTION (E) OF THIS SECTION SHALL MAIL A COPY OF THE**

1 COMPLAINT TO THE DEPARTMENT WITHIN 45 DAYS AFTER THE DATE OF NOTICE OF
2 DECISION ISSUED BY THE DEPARTMENT.

3 (2) IF THE DEPARTMENT DOES NOT RECEIVE A COPY OF A
4 COMPLAINT FILED UNDER SUBSECTION (E) OF THIS SECTION WITHIN 45 DAYS AFTER
5 THE DATE OF THE NOTICE OF DECISION ISSUED BY THE DEPARTMENT, THE
6 DEPARTMENT SHALL TAKE ACTION IN ACCORDANCE WITH ITS FINAL DECISION.

7 (H) A GROUND LEASE REGISTRATION OR AMENDMENT THAT HAS BEEN
8 VOIDED BY THE DEPARTMENT UNDER THIS SECTION MAY NOT BE CONSIDERED
9 REGISTERED.

10 (I) THE DEPARTMENT SHALL INCLUDE NOTICE ON ALL GROUND RENT
11 FORMS AND ON ITS WEBSITE IN SUBSTANTIALLY THE FOLLOWING FORM:

12 “NOTICE REQUIRED BY LAW: A GROUND RENT LEASE HOLDER MAY NOT
13 COLLECT OR ATTEMPT TO COLLECT GROUND RENT, LATE FEES, INTEREST,
14 COLLECTION COSTS, OR ANY OTHER EXPENSES RELATED TO A GROUND LEASE THAT
15 IS NOT REGISTERED AND POSTED ON THE DEPARTMENT’S ONLINE GROUND RENT
16 REGISTRY.”.

17 (J) (1) THE DEPARTMENT SHALL DEVELOP A FORM AFFIDAVIT AND A
18 FORM COUNTER-AFFIDAVIT THAT SHALL BE USED BY A LEASEHOLD TENANT AND
19 GROUND LEASE HOLDER, RESPECTIVELY, FOR SUBMISSIONS MADE TO THE
20 DEPARTMENT UNDER SUBSECTION (B) OF THIS SECTION.

21 (2) THE FORM AFFIDAVIT AND FORM COUNTER-AFFIDAVIT
22 DEVELOPED BY THE DEPARTMENT SHALL INCLUDE AN ACKNOWLEDGMENT THAT
23 THE FORM IS BEING SIGNED UNDER PENALTY OF PERJURY.

24 (K) THE DEPARTMENT MAY NOT CHARGE A FEE TO CARRY OUT THIS
25 SECTION.

26 (L) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS
27 SECTION.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2023.