

SENATE BILL 194

N1

3lr1197
CF HB 118

By: **Senators Sydnor and Hayes**

Introduced and read first time: January 20, 2023

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Ground Leases – Notices and Billing – Forms and Requirements**

3 FOR the purpose of prohibiting a leasehold tenant of an unregistered ground lease from
4 being required to hold more than a certain amount of ground rent in escrow;
5 requiring a ground lease holder to mail certain notices and bills to a leasehold tenant
6 in a certain manner under certain circumstances and prohibiting the ground lease
7 holder from requiring the leasehold tenant to reimburse the ground lease holder for
8 the mailing expenses; requiring the State Department of Assessments and Taxation
9 to develop and make available on its website certain form notices and bills; requiring
10 a ground lease transferee to send notice of a ground lease transfer to the State
11 Department of Assessments and Taxation within a certain period of time; and
12 generally relating to ground leases.

13 BY renumbering

14 Article – Real Property
15 Section 8–801(b) through (f)
16 to be Section 8–801(c) through (g), respectively
17 Annotated Code of Maryland
18 (2015 Replacement Volume and 2022 Supplement)

19 BY repealing and reenacting, with amendments,

20 Article – Real Property
21 Section 8–707, 8–805(a) and (d)(1)(iii) and (v) and (3)(ii), 8–807(a), (c), and (d), 8–809,
22 and 8–810
23 Annotated Code of Maryland
24 (2015 Replacement Volume and 2022 Supplement)

25 BY repealing and reenacting, without amendments,

26 Article – Real Property
27 Section 8–801(a)
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2015 Replacement Volume and 2022 Supplement)

2 BY adding to

3 Article – Real Property

4 Section 8–801(b) and 8–801.1

5 Annotated Code of Maryland

6 (2015 Replacement Volume and 2022 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
8 That Section(s) 8–801(b) through (f) of Article – Real Property of the Annotated Code of
9 Maryland be renumbered to be Section(s) 8–801(c) through (g), respectively.

10 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
11 as follows:

12 **Article – Real Property**

13 8–707.

14 If a ground lease is not registered in accordance with this [subtitle, the] **SUBTITLE:**

15 **(1) THE** ground lease holder may not:

16 [(1)] **(I)** Collect any ground rent payments due under the ground lease;

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

19 [(3)] **(III)** Bring an action against the leasehold tenant under Subtitle 8 of
20 this title; **AND**

21 **(2) THE LEASEHOLD TENANT OF THE UNREGISTERED GROUND LEASE**
22 **MAY NOT BE REQUIRED TO HOLD MORE THAN 3 YEARS OF GROUND RENT IN ESCROW**
23 **FOR THE UNREGISTERED GROUND LEASE.**

24 8–801.

25 (a) In this subtitle the following words have the meanings indicated.

26 **(B) “DEPARTMENT” MEANS THE STATE DEPARTMENT OF ASSESSMENTS**
27 **AND TAXATION.**

28 **8–801.1.**

29 **(A) THE GENERAL ASSEMBLY DECLARES THAT IT IS IN THE PUBLIC**
30 **INTEREST FOR GROUND RENTS TO BE REDEEMED.**

1 **(B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE DEPARTMENT**
2 **USE ITS GROUND RENT REDEMPTION PROGRAM TO ASSIST IN THE REDEMPTION OF**
3 **GROUND RENTS.**

4 8–805.

5 (a) (1) In this section the following words have the meanings indicated.

6 (2) [“Department” means the State Department of Assessments and
7 Taxation.

8 (3)] “Irredeemable ground rent” means a ground rent created under a
9 ground lease executed before April 9, 1884, that does not contain a provision allowing the
10 leasehold tenant to redeem the ground rent.

11 [(4) (3) “Redeemable ground rent” means a ground rent that may be
12 redeemed in accordance with this section or redeemed or extinguished in accordance with
13 § 8–804(f) of this subtitle.

14 (d) (1) To be effective and to be entitled to be recorded, the notice shall be
15 executed by the ground lease holder, acknowledged before a notary public, and contain
16 substantially the following information:

17 (iii) The name of every leasehold tenant as of the time the notice is
18 filed according to the land records or the records of the [State] Department [of Assessments
19 and Taxation];

20 (v) The recording reference of every leasehold tenant’s leasehold
21 deed, as of the time the notice is filed, according to the land records or the records of the
22 [State] Department [of Assessments and Taxation];

23 (3) The notice shall be indexed as “Notice of Intention to Preserve
24 Irredeemability”:

25 (ii) In the grantor indices of deeds under the name of every leasehold
26 tenant as of the time the notice is filed according to the land records or the records of the
27 [State] Department [of Assessments and Taxation]; and

28 8–807.

29 (a) For property subject to a ground lease in effect on or after July 1, 2007, a
30 ground lease holder may bring an action for possession for nonpayment of ground rent only:

31 (1) If the ground lease holder has the lawful right to claim possession for
32 nonpayment of ground rent;

1 (2) If the ground lease is registered with the [State] Department [of
2 Assessments and Taxation] under Subtitle 7 of this title;

3 (3) If the payment of ground rent is at least 6 months in arrears; and

4 (4) As provided under this section.

5 (c) (1) (I) No less than 60 days before filing an action for possession, the
6 ground lease holder shall send a notice, in the form required under paragraph (2) of this
7 subsection, to the leasehold tenant's last known address **AND TO THE PREMISES ADDRESS**
8 as shown in the records of the [State] Department [of Assessments and Taxation, or other
9 place of business or residence if known,] by[:

10 (i) First-class mail;] **FIRST-CLASS MAIL** and

11 [(ii) Certified] **CERTIFIED** mail, return receipt requested.

12 (II) **IF A LEASEHOLD TENANT'S LAST KNOWN MAILING ADDRESS**
13 **AND THE PREMISES ADDRESS LISTED IN THE RECORDS OF THE DEPARTMENT ARE**
14 **DIFFERENT, THE GROUND LEASE HOLDER SHALL MAIL ONE COPY OF THE NOTICE BY**
15 **FIRST-CLASS MAIL AND ONE COPY OF THE NOTICE BY CERTIFIED MAIL, RETURN**
16 **RECEIPT REQUESTED, TO EACH ADDRESS, RESPECTIVELY.**

17 (III) **A GROUND LEASE HOLDER MAY NOT REQUIRE A LEASEHOLD**
18 **TENANT TO REIMBURSE THE GROUND LEASE HOLDER FOR COSTS INCURRED IN**
19 **PROVIDING NOTICE REQUIRED UNDER THIS SUBSECTION.**

20 (2) The **DEPARTMENT SHALL DEVELOP AND MAKE AVAILABLE ON ITS**
21 **WEBSITE A FORM NOTICE FOR USE BY A GROUND LEASE HOLDER TO PROVIDE TO A**
22 **LEASEHOLD TENANT THE** notice required under paragraph (1) of this subsection [shall be
23 in substantially the same form as the notice contained on the Web site of the State
24 Department of Assessments and Taxation].

25 (3) If authorized under the ground lease, a ground lease holder may be
26 reimbursed for reasonable late fees, interest, collection costs, and expenses not exceeding
27 \$100, provided the outstanding amount due is paid after the notice sent under paragraph
28 (1) of this subsection and before a notice is sent under subsection (d) of this section.

29 (d) (1) (I) After notice has been sent under subsection (c) of this section and
30 no [less] **FEWER** than 30 days before filing an action for possession, the ground lease holder
31 shall send a notice, in the form required under paragraph (2) of this subsection, to the
32 leasehold tenant's last known address **AND TO THE PREMISES ADDRESS** as shown in the
33 records of the [State] Department [of Assessments and Taxation, or other place of business
34 or residence if known,] by[:

1 (i) First-class mail;] **FIRST-CLASS MAIL** and

2 [(ii) Certified] **CERTIFIED** mail, return receipt requested.

3 **(II) IF A LEASEHOLD TENANT'S LAST KNOWN MAILING ADDRESS**
4 **AND THE PREMISES ADDRESS LISTED IN THE RECORDS OF THE DEPARTMENT ARE**
5 **DIFFERENT, THE GROUND LEASE HOLDER SHALL MAIL ONE COPY OF THE NOTICE BY**
6 **FIRST-CLASS MAIL AND ONE COPY OF THE NOTICE BY CERTIFIED MAIL, RETURN**
7 **RECEIPT REQUESTED, TO EACH ADDRESS, RESPECTIVELY.**

8 **(III) A GROUND LEASE HOLDER MAY NOT REQUIRE A LEASEHOLD**
9 **TENANT TO REIMBURSE THE GROUND LEASE HOLDER FOR COSTS INCURRED IN**
10 **PROVIDING NOTICE REQUIRED UNDER THIS SUBSECTION.**

11 (2) (I) The **DEPARTMENT SHALL DEVELOP AND MAKE AVAILABLE**
12 **ON ITS WEBSITE A FORM NOTICE FOR USE BY A GROUND LEASE HOLDER TO PROVIDE**
13 **TO A LEASEHOLD TENANT THE** notice required under paragraph (1) of this subsection.

14 **(II) THE FORM** shall be in 14 point bold font and [include] **REQUIRE**
15 **THE FOLLOWING:**

16 [(i)] **1.** An itemized bill for the payment due;

17 [(ii)] **2.** The amount necessary to cure the default, including late
18 fees, interest, collection costs, and expenses authorized under paragraph (3) of this
19 subsection;

20 [(iii)] **3.** The name and address of the person to whom to send the
21 payment due;

22 [(iv)] **4.** The name and contact information of the person to contact
23 for questions about the notice; and

24 [(v)] **5.** A statement that unless the default is cured in 30 days:

25 [1.] **A.** The ground lease holder intends to file an action for
26 possession; and

27 [2.] **B.** The leasehold tenant may be liable for reimbursing
28 the ground lease holder for expenses and costs incurred in connection with the collection of
29 past due ground rent and the filing of the action for possession.

1 (3) If authorized under the ground lease, a ground lease holder may be
2 reimbursed for reasonable late fees, interest, collection costs, and expenses not exceeding
3 \$650, including:

4 (i) Title abstract and examination fees;

5 (ii) Judgment report costs;

6 (iii) Photocopying and postage fees; and

7 (iv) Attorney's fees.

8 8–809.

9 (a) (1) A ground lease holder may not collect a yearly or half-yearly
10 installment payment of a ground rent due under the ground lease unless:

11 [(1)] (I) The ground lease is registered with the [State] Department [of
12 Assessments and Taxation] under Subtitle 7 of this title; and

13 [(2)] (II) At least 60 days before the payment is due, the ground lease
14 holder mails a bill, **IN THE FORM REQUIRED UNDER SUBSECTION (B) OF THIS**
15 **SECTION**, to the last known address of the leasehold tenant and to the **PREMISES** address
16 of the property subject to the ground lease **LISTED IN THE RECORDS OF THE**
17 **DEPARTMENT**.

18 (2) **IF A LEASEHOLD TENANT'S LAST KNOWN MAILING ADDRESS AND**
19 **THE PREMISES ADDRESS LISTED IN THE RECORDS OF THE DEPARTMENT ARE**
20 **IDENTICAL, THE GROUND LEASE HOLDER SHALL MAIL ONE COPY OF THE BILL TO**
21 **THE ADDRESS BY FIRST-CLASS MAIL AND ONE COPY OF THE BILL TO THE ADDRESS**
22 **BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.**

23 (3) **IF A LEASEHOLD TENANT'S LAST KNOWN MAILING ADDRESS AND**
24 **PREMISES ADDRESS LISTED IN THE RECORDS OF THE DEPARTMENT ARE**
25 **DIFFERENT, THE GROUND LEASE HOLDER SHALL MAIL ONE COPY OF THE BILL BY**
26 **FIRST-CLASS MAIL AND ONE COPY OF THE BILL BY CERTIFIED MAIL, RETURN**
27 **RECEIPT REQUESTED, TO EACH ADDRESS, RESPECTIVELY.**

28 (4) **A GROUND LEASE HOLDER MAY NOT REQUIRE THE LEASEHOLD**
29 **TENANT TO REIMBURSE THE GROUND LEASE HOLDER FOR COSTS INCURRED TO**
30 **PROVIDE A BILL UNDER THIS SUBSECTION.**

31 (b) (1) **THE DEPARTMENT SHALL DEVELOP AND MAKE AVAILABLE ON ITS**
32 **WEBSITE A FORM BILL FOR USE BY A GROUND LEASE HOLDER.**

1 **(2)** The **FORM** bill **MADE AVAILABLE ON THE DEPARTMENT’S WEBSITE**
2 shall include a notice in boldface type, at least as large as 14 point, in substantially the
3 following form:

4 “NOTICE REQUIRED BY MARYLAND LAW
5 REGARDING YOUR GROUND RENT

6 This property (address) is subject to a ground lease. The annual payment on the ground
7 lease (“ground rent”) is \$(dollar amount), payable in yearly or half-yearly installments on
8 (date or dates).

9 The next ground rent payment is due (day, month, year) in the amount of \$(dollar amount).

10 The payment of the ground rent should be sent to:

11 (name of ground lease holder)

12 (address)

13 (phone number)

14 **NOTE REGARDING YOUR RIGHTS AND RESPONSIBILITIES UNDER MARYLAND**
15 **LAW:**

16 The ground lease holder is required to register the ground lease with the State Department
17 of Assessments and Taxation and is prohibited from collecting ground rent payments unless
18 the ground lease is registered. If the ground lease is registered, as the owner of this
19 property, you are obligated to pay the ground rent to the ground lease holder. To determine
20 whether the ground lease is registered, you may check the [Web site] **WEBSITE** of the State
21 Department of Assessments and Taxation. It is also your responsibility to notify the ground
22 lease holder if you change your address or transfer ownership of the property.

23 If you fail to pay the ground rent on time, you are still responsible for paying the ground
24 rent. In addition, if the ground lease holder files an action in court to collect the past due
25 ground rent, you may be required to pay the ground lease holder for fees and costs
26 associated with the collection of the past due ground rent. In addition, the ground lease
27 holder may also file an action in court to take possession of the property, which may result
28 in your being responsible for additional fees and costs and ultimately in your loss of the
29 property. Please note that under Maryland law, a ground lease holder may demand not
30 more than 3 years of past due ground rent, and there are limits on how much a ground
31 lease holder may be reimbursed for fees and costs. If you fail to pay the ground rent on
32 time, you should contact a lawyer for advice.

33 As the owner of this property, you are entitled to redeem, or purchase, the ground lease
34 from the ground lease holder and obtain absolute ownership of the property. Unless you
35 and the ground lease holder agree to a lesser amount, the amount to redeem your ground
36 lease is _____. If you wish to redeem the ground lease, contact the ground lease holder. If
37 the identity of the ground lease holder is unknown, the State Department of Assessments
38 and Taxation provides a process to redeem the ground lease that may result in your

1 obtaining absolute ownership of the property. If you would like to obtain absolute
2 ownership of this property, you should contact a lawyer for advice.”.

3 8–810.

4 (a) Within 30 days after any transfer of a ground lease, the transferee shall notify
5 the leasehold tenant **AND THE DEPARTMENT** of the transfer.

6 (b) (1) The notification shall include the name and address of the new ground
7 lease holder and the date of the transfer.

8 (2) If the property is subject to a redeemable ground rent, the notification
9 shall also include the following notice:

10 “As the owner of the property subject to this ground lease, you are entitled to redeem,
11 or purchase, the ground lease from the ground lease holder and obtain absolute ownership
12 of the property. The redemption amount is fixed by law but may also be negotiated with
13 the ground lease holder for a different amount. For information on redeeming the ground
14 lease, contact the ground lease holder.”

15 (c) **(1)** A ground lease holder shall send notice under this section to the last
16 known address of the leasehold tenant **AND THE PREMISES ADDRESS LISTED IN THE**
17 **RECORDS OF THE DEPARTMENT BY FIRST-CLASS MAIL AND CERTIFIED MAIL,**
18 **RETURN RECEIPT REQUESTED.**

19 **(2)** **IF A LEASEHOLD TENANT’S LAST KNOWN MAILING ADDRESS AND**
20 **PREMISES ADDRESS LISTED IN THE RECORDS OF THE DEPARTMENT ARE**
21 **DIFFERENT, THE GROUND LEASE HOLDER SHALL MAIL ONE COPY OF THE NOTICE BY**
22 **FIRST-CLASS MAIL AND ONE COPY OF THE NOTICE BY CERTIFIED MAIL, RETURN**
23 **RECEIPT REQUESTED, TO EACH ADDRESS, RESPECTIVELY.**

24 **(3)** **A GROUND LEASE HOLDER MAY NOT REQUIRE A LEASEHOLD**
25 **TENANT TO REIMBURSE THE GROUND LEASE HOLDER FOR COSTS INCURRED IN**
26 **PROVIDING NOTICE REQUIRED UNDER THIS SECTION.**

27 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2023.