

Chapter 185

(Senate Bill 194)

AN ACT concerning

Ground Leases – Notices and Billing – Forms and Requirements

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

BY renumbering

Article – Real Property

Section 8–801(b) through (f)

to be Section 8–801(c) through (g), respectively

Annotated Code of Maryland

(2015 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,

Article – Real Property

Section 8–707, 8–805(a) and (d)(1)(iii) and (v) and (3)(ii), 8–807(a), (c), and (d), 8–809,
and 8–810

Annotated Code of Maryland

(2015 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, without amendments,

Article – Real Property

Section 8–801(a)

Annotated Code of Maryland

(2015 Replacement Volume and 2022 Supplement)

BY adding to

Article – Real Property

Section 8–801(b) and 8–801.1

Annotated Code of Maryland

(2015 Replacement Volume and 2022 Supplement)

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

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

Article – Real Property

8–707.

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

(1) THE ground lease holder may not:

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

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

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

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

8–801.

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

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

8–801.1.

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

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

8–805.

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

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

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

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

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

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

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

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

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

8–807.

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

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

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

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

(4) As provided under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Title abstract and examination fees;

- (ii) Judgment report costs;
- (iii) Photocopying and postage fees; and
- (iv) Attorney's fees.

8-809.

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

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

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

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

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

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

(b) **(1) THE DEPARTMENT SHALL DEVELOP AND MAKE AVAILABLE ON ITS WEBSITE ~~A FORM BILL FOR USE BY A GROUND LEASE HOLDER~~ THE FORM A GROUND LEASE HOLDER MUST USE TO PROVIDE TO A LEASEHOLD TENANT THE BILL REQUIRED UNDER SUBSECTION (A)(1)(II) OF THIS SECTION.**

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

“NOTICE REQUIRED BY MARYLAND LAW
REGARDING YOUR GROUND RENT

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

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

The payment of the ground rent should be sent to:

(name of ground lease holder)

(address)

(phone number)

NOTE REGARDING YOUR RIGHTS AND RESPONSIBILITIES UNDER MARYLAND LAW:

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

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

As the owner of this property, you are entitled to redeem, or purchase, the ground lease from the ground lease holder and obtain absolute ownership of the property. Unless you and the ground lease holder agree to a lesser amount, the amount to redeem your ground lease is _____. If you wish to redeem the ground lease, contact the ground lease holder. If the identity of the ground lease holder is unknown, the State Department of Assessments and Taxation provides a process to redeem the ground lease that may result in your obtaining absolute ownership of the property. If you would like to obtain absolute ownership of this property, you should contact a lawyer for advice.”.

8–810.

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

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

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

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

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

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

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

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

Approved by the Governor, April 24, 2023.