

HOUSE BILL 118

N1

(PRE-FILED)

3lr0511
CF SB 194

By: **Delegate Holmes**

Requested: October 5, 2022

Introduced and read first time: January 11, 2023

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 25, 2023

CHAPTER _____

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

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.



1 Annotated Code of Maryland
2 (2015 Replacement Volume and 2022 Supplement)

3 BY repealing and reenacting, without amendments,
4 Article – Real Property
5 Section 8–801(a)
6 Annotated Code of Maryland
7 (2015 Replacement Volume and 2022 Supplement)

8 BY adding to
9 Article – Real Property
10 Section 8–801(b) and 8–801.1
11 Annotated Code of Maryland
12 (2015 Replacement Volume and 2022 Supplement)

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

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

18 **Article – Real Property**

19 8–707.

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

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

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

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

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

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

30 8–801.

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

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

3 **8–801.1.**

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

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

9 **8–805.**

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

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

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

16 [[4] (3) “Redeemable ground rent” means a ground rent that may be
17 redeemed in accordance with this section or redeemed or extinguished in accordance with
18 § 8–804(f) of this subtitle.

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

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

25 (v) The recording reference of every leasehold tenant’s leasehold
26 deed, 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];

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

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

1 8-807.

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

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

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

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

9 (4) As provided under this section.

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

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

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

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

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

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

31 (3) If authorized under the ground lease, a ground lease holder may be
32 reimbursed for reasonable late fees, interest, collection costs, and expenses not exceeding

1 \$100, provided the outstanding amount due is paid after the notice sent under paragraph
2 (1) of this subsection and before a notice is sent under subsection (d) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (3) If authorized under the ground lease, a ground lease holder may be
7 reimbursed for reasonable late fees, interest, collection costs, and expenses not exceeding
8 \$650, including:

9 (i) Title abstract and examination fees;

10 (ii) Judgment report costs;

11 (iii) Photocopying and postage fees; and

12 (iv) Attorney's fees.

13 8–809.

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

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

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

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

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

1 more than 3 years of past due ground rent, and there are limits on how much a ground
2 lease holder may be reimbursed for fees and costs. If you fail to pay the ground rent on
3 time, you should contact a lawyer for advice.

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

12 8–810.

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

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

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

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

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

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.