

Chapter 180

(House Bill 92)

AN ACT concerning

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

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

BY repealing and reenacting, with amendments,

Article – Real Property

Section 8–703 and 8–707

Annotated Code of Maryland

(2015 Replacement Volume and 2022 Supplement)

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

Article – Real Property

8–703.

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

(2) The online registry shall:

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

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

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

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

8-707.

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

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

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

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

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

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

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

(ii) THE RELEVANT GROUND LEASE REGISTRATION OR AMENDMENT SUBMITTED TO THE DEPARTMENT BY THE GROUND LEASE HOLDER FOR THE PROPERTY IN QUESTION MAY BE VOIDED IN THE DEPARTMENT'S RECORDS UNLESS, WITHIN 45 DAYS AFTER THE NOTICE, THE GROUND LEASE HOLDER SUBMITS TO THE DEPARTMENT A COUNTER-AFFIDAVIT AND ANY DOCUMENTS IN SUPPORT OF

THE COUNTER–AFFIDAVIT THAT SETS FORTH THE GROUND LEASE HOLDER’S BELIEF THAT ANY COLLECTION OR ATTEMPTED COLLECTION DESCRIBED IN THE AFFIDAVIT DID NOT VIOLATE SUBSECTION (A)(1) OF THIS SECTION AND THE FACTUAL BASIS FOR THAT BELIEF.

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

(I) BE SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND BY FIRST–CLASS MAIL TO THE ADDRESS PROVIDED IN THE GROUND LEASE HOLDER’S GROUND LEASE REGISTRATION OR AMENDMENT, OR TO ANY OTHER ADDRESS USED BY THE GROUND LEASE HOLDER KNOWN TO THE DEPARTMENT; AND

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

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

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

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

(I) BE SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND BY FIRST–CLASS MAIL; AND

(II) STATE THAT THE DEPARTMENT:

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

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

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

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

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

(II) STATE THAT:

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

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

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

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

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

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

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

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

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

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

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

(I) THE COURT SHALL ENTER AN ORDER REQUIRING THE DEPARTMENT TO VOID THE APPROPRIATE GROUND LEASE REGISTRATION OR AMENDMENT IN THE DEPARTMENT'S RECORDS;

(II) THE PREVAILING PARTY SHALL PROVIDE A COPY OF THE ORDER TO THE DEPARTMENT; AND

(III) THE DEPARTMENT SHALL PROMPTLY VOID THE REGISTRATION OR AMENDMENT AND ENTER A NOTATION IN THE DEPARTMENT'S RECORDS THAT THE RELEVANT GROUND LEASE REGISTRATION OR AMENDMENT IS VOID UNDER A COURT ORDER.

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

(I) THE COURT SHALL ENTER AN ORDER FINDING THAT THE COLLECTION OR ATTEMPTED COLLECTION THAT WAS THE SUBJECT OF THE COMPLAINT WAS NOT UNLAWFUL; AND

(II) THE PREVAILING PARTY SHALL PROVIDE A COPY OF THE ORDER TO THE DEPARTMENT.

(G) (1) A GROUND LEASE HOLDER OR LEASEHOLD TENANT WHO FILES AN ACTION UNDER SUBSECTION (E) OF THIS SECTION SHALL MAIL A COPY OF THE COMPLAINT TO THE DEPARTMENT WITHIN 45 DAYS AFTER THE DATE OF NOTICE OF DECISION ISSUED BY THE DEPARTMENT.

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

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

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

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

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

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

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

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

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

Approved by the Governor, April 24, 2023.