

SENATE BILL 1095

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EMERGENCY BILL

4lr3373
CF HB 1529

By: **Senator Frosh**

Introduced and read first time: March 3, 2014

Assigned to: Rules

Re-referred to: Judicial Proceedings, March 3, 2014

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Ground Rents**

3 FOR the purpose of repealing certain provisions of law providing that the
4 establishment of a lien is the remedy for nonpayment of a ground rent on
5 certain residential property; prohibiting a certain landlord from receiving
6 reimbursement for additional costs and expenses related to collection of back
7 rent under certain circumstances; altering the application of certain provisions
8 of law requiring a certain landlord to give certain notice to certain persons when
9 a certain ground rent is in arrears; authorizing the holder of a certain ground
10 rent in arrears to be reimbursed for certain expenses under certain
11 circumstances; altering the application of certain provisions of law authorizing a
12 certain person to bring an action for possession of certain property; requiring
13 service of process in a certain action for nonpayment of ground rent to be made
14 in a certain manner; repealing certain provisions of law authorizing service in a
15 certain action for nonpayment of ground rent to be made in a certain manner;
16 providing that certain provisions of law authorizing a default judgment in rem
17 for possession of certain property do not apply to certain actions for nonpayment
18 of certain ground rent; altering the contents of certain notices required to be
19 included in certain ground rent bills and contracts for the sale of certain
20 residential property subject to a ground lease; making this Act an emergency
21 measure; and generally relating to ground rents.

22 BY repealing

23 Article – Real Property

24 Section 8–402.3

25 Annotated Code of Maryland

26 (2010 Replacement Volume and 2013 Supplement)

27 BY repealing and reenacting, with amendments,

28 Article – Real Property

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 8–111.1, 8–402.2, 14–108.1, 14–116.1, and 14–117(a)
 2 Annotated Code of Maryland
 3 (2010 Replacement Volume and 2013 Supplement)

4 BY repealing and reenacting, without amendments,
 5 Article – Real Property
 6 Section 8–111.2
 7 Annotated Code of Maryland
 8 (2010 Replacement Volume and 2013 Supplement)

9 BY adding to
 10 Article – Real Property
 11 Section 8–402.3
 12 Annotated Code of Maryland
 13 (2010 Replacement Volume and 2013 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 15 MARYLAND, That Section(s) 8–402.3 of Article – Real Property of the Annotated Code
 16 of Maryland be repealed.

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

19 **Article – Real Property**

20 8–111.1.

21 (a) This section applies to all residential leases or subleases in effect on or
 22 after October 1, 1999, which have an initial term of 99 years and which create a
 23 leasehold estate, or subleasehold estate, subject to the payment of an annual ground
 24 rent.

25 (b) In any suit, action, or proceeding by a landlord, or the transferee of the
 26 reversion in leased property, to recover back rent, the landlord, or the transferee of the
 27 reversion in leased property is entitled to demand or recover not more than 3 years
 28 back rent.

29 **(C) IN ADDITION TO RENT PAYABLE UNDER SUBSECTION (B) OF THIS**
 30 **SECTION, A LANDLORD MAY NOT RECEIVE REIMBURSEMENT FOR ANY**
 31 **ADDITIONAL COSTS OR EXPENSES RELATED TO COLLECTION OF THE BACK**
 32 **RENT, EXCEPT AS PROVIDED IN §§ 8–402.2 AND 8–402.3 OF THIS TITLE.**

33 **[(c)] (D)** (1) Notwithstanding any other provision of law, in any suit,
 34 action, or proceeding to recover back rent, a landlord or holder of a ground rent may
 35 only recover not more than 3 years back rent if the property is:

1 (i) Owned or acquired by any means by the Mayor and City
2 Council of Baltimore; and

3 (ii) Abandoned property, as defined in § 21-17(a)(2) of the
4 Public Local Laws of Baltimore City, or distressed property, as defined in §
5 21-17(a)(3) of the Public Local Laws of Baltimore City.

6 (2) With regard to property described under paragraph (1) of this
7 subsection, a landlord may request in writing that the Mayor and City Council of
8 Baltimore acquire the reversionary interest under the ground rent for the market
9 value established at the time of the acquisition by the Mayor and City Council of the
10 leasehold interest under the ground rent.

11 8-111.2.

12 (a) This section does not apply to property:

13 (1) Leased for business, commercial, manufacturing, mercantile, or
14 industrial purposes, or any other purpose that is not primarily residential;

15 (2) Improved or to be improved by any apartment, condominium,
16 cooperative, or other building for multifamily use of greater than four dwelling units;

17 (3) Leased for dwellings or mobile homes that are erected or placed in
18 a mobile home development or mobile home park; or

19 (4) Subject to an affordable housing land trust agreement executed
20 under Title 14, Subtitle 5 of this article.

21 (b) On or after January 22, 2007, the owner of a fee simple or leasehold
22 estate in residential property that is or was used, intended to be used, or authorized to
23 be used for four or fewer dwelling units may not create a reversionary interest in the
24 property under a ground lease or a ground sublease for a term of years renewable
25 forever subject to the payment of a periodic ground rent.

26 8-402.2.

27 (a) [(1) This section applies to property:

28 (i) Leased for business, commercial, manufacturing, mercantile,
29 or industrial purposes, or any other purpose that is not primarily residential;

30 (ii) Improved or to be improved by any apartment,
31 condominium, cooperative, or other building for multifamily use of greater than four
32 dwelling units; or

1 (iii) Leased for dwellings or mobile homes that are erected or
2 placed in a mobile home development or mobile home park.

3 (2) This section does not apply to residential property that is or was
4 used, intended to be used, or authorized to be used for four or fewer dwelling units.

5 (b)] Whenever, in a case that involves a 99-year ground lease renewable
6 forever, at least 6 months ground rent is in arrears and the landlord has the lawful
7 right to reenter for the nonpayment of the rent, the landlord, no less than 45 days
8 after sending to the tenant by certified mail, return receipt requested, at the tenant's
9 last known address, and also by first-class mail to the title agent or attorney listed on
10 the deed to the property or the intake sheet recorded with the deed, a bill for the
11 ground rent due, may bring an action for possession of the property under § 14-108.1
12 of this article[; if the tenant cannot be personally served or there is no tenant in actual
13 possession of the property, service by posting notice on the property may be made in
14 accordance with the Maryland Rules. Personal service or posting in accordance with
15 the Maryland Rules shall stand in the place of a demand and reentry].

16 [(c)] (B) (1) Before entry of a judgment the landlord shall give written
17 notice of the pending entry of judgment to each mortgagee of the lease, or any part of
18 the lease, who before entry of the judgment has recorded in the land records of each
19 county where the property is located a timely request for notice of judgment. A request
20 for notice of judgment shall:

21 (i) Be recorded in a separate docket or book that is indexed
22 under the name of the mortgagor;

23 (ii) Identify the property on which the mortgage is held and
24 refer to the date and recording reference of that mortgage;

25 (iii) State the name and address of the holder of the mortgage;
26 and

27 (iv) Identify the ground lease by stating:

28 1. The name of the original lessor;

29 2. The date the ground lease was recorded; and

30 3. The office, docket or book, and page where the ground
31 lease is recorded.

32 (2) The landlord shall mail the notice by certified mail return receipt
33 requested to the mortgagee at the address stated in the recorded request for notice of
34 judgment. If the notice is not given, judgment in favor of the landlord does not impair
35 the lien of the mortgagee. Except as otherwise provided in this subsection, the
36 property is discharged from the lease and the rights of all persons claiming under the

1 lease are foreclosed unless, within 6 calendar months after execution of the judgment
2 for possession, the tenant or any other person claiming under the lease:

3 (i) Pays the ground rent, arrears, and all costs awarded against
4 that person; and

5 (ii) Commences a proceeding to obtain relief from the judgment.

6 **[(d)] (C)** This section does not bar the right of any mortgagee of the lease, or
7 any part of the lease, who is not in possession at any time before expiration of 6
8 calendar months after execution of the judgment awarding the landlord possession, to
9 pay all costs and damages sustained by the landlord and to perform all the covenants
10 and agreements that are to be performed by the tenant.

11 **(D) EXCEPT AS OTHERWISE PROVIDED BY LAW, A LANDLORD MAY NOT**
12 **RECEIVE REIMBURSEMENT FOR ANY ADDITIONAL COSTS OR EXPENSES**
13 **RELATED TO COLLECTION OF THE BACK RENT UNLESS THE NOTICE**
14 **REQUIREMENTS OF THIS SECTION AND § 8-402.3 OF THIS SUBTITLE ARE MET.**

15 **8-402.3.**

16 **(A) IN THIS SECTION, "GROUND RENT" MEANS A RESIDENTIAL LEASE**
17 **OR SUBLEASE IN EFFECT ON OR AFTER JULY 1, 2007, THAT HAS AN INITIAL**
18 **TERM OF 99 YEARS RENEWABLE FOREVER AND CREATES A LEASEHOLD ESTATE**
19 **SUBJECT TO THE PAYMENT OF SEMIANNUAL INSTALLMENTS OF AN ANNUAL**
20 **LEASE AMOUNT.**

21 **(B) (1) IF AUTHORIZED UNDER THE RESIDENTIAL LEASE OR**
22 **SUBLEASE, THE HOLDER OF A GROUND RENT THAT IS AT LEAST 6 MONTHS IN**
23 **ARREARS IS ENTITLED TO REIMBURSEMENT FOR ACTUAL EXPENSES NOT**
24 **EXCEEDING \$300 INCURRED IN THE COLLECTION OF THAT PAST DUE GROUND**
25 **RENT AND IN COMPLYING WITH THE NOTICE REQUIREMENTS UNDER §**
26 **8-402.2(A) OF THIS SUBTITLE, INCLUDING:**

27 **(I) TITLE ABSTRACT AND EXAMINATION FEES;**

28 **(II) JUDGMENT REPORT FEES;**

29 **(III) PHOTOCOPYING AND POSTAGE FEES; AND**

30 **(IV) ATTORNEY'S FEES.**

31 **(2) IF AUTHORIZED UNDER THE RESIDENTIAL LEASE OR**
32 **SUBLEASE, ON FILING AN ACTION FOR EJECTMENT, THE PLAINTIFF OR HOLDER**

1 OF A GROUND RENT IS ENTITLED TO REIMBURSEMENT FOR REASONABLE
2 EXPENSES INCURRED IN THE PREPARATION AND FILING OF THE EJECTMENT
3 ACTION, INCLUDING:

4 (I) FILING FEES AND COURT COSTS;

5 (II) EXPENSES INCURRED IN THE SERVICE OF PROCESS OR
6 OTHERWISE PROVIDING NOTICE;

7 (III) TITLE ABSTRACT AND EXAMINATION FEES NOT
8 INCLUDED UNDER PARAGRAPH (1) OF THIS SUBSECTION, NOT EXCEEDING \$150;

9 (IV) REASONABLE ATTORNEY'S FEES NOT EXCEEDING \$450;
10 AND

11 (V) TAXES, INCLUDING INTEREST AND PENALTIES, THAT
12 HAVE BEEN PAID BY THE PLAINTIFF OR HOLDER OF A GROUND RENT.

13 (C) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION OR IN §
14 8-402.2(C) OF THIS SUBTITLE, THE PLAINTIFF OR HOLDER OF A GROUND RENT
15 IS NOT ENTITLED TO REIMBURSEMENT FOR ANY OTHER EXPENSES INCURRED IN
16 THE COLLECTION OF A GROUND RENT.

17 (D) (1) THE HOLDER OF A GROUND RENT MAY NOT BE REIMBURSED
18 FOR EXPENSES UNDER SUBSECTION (B) OF THIS SECTION UNLESS THE HOLDER
19 SENDS THE TENANT AS IDENTIFIED IN THE RECORDS OF THE STATE
20 DEPARTMENT OF ASSESSMENTS AND TAXATION WRITTEN NOTICE AT LEAST 30
21 DAYS BEFORE TAKING ANY ACTION IN ACCORDANCE WITH § 8-402.2(A) OF THIS
22 SUBTITLE AND § 14-108.1 OF THIS ARTICLE.

23 (2) THE NOTICE SHALL BE IN 14 POINT, BOLD FONT, AND
24 CONTAIN THE FOLLOWING:

25 (I) THE AMOUNT OF THE PAST DUE GROUND RENT; AND

26 (II) A STATEMENT THAT UNLESS THE PAST DUE GROUND
27 RENT IS PAID WITHIN 30 DAYS, FURTHER ACTION WILL BE TAKEN IN
28 ACCORDANCE WITH § 8-402.2(A) OF THIS SUBTITLE AND § 14-108.1 OF THIS
29 ARTICLE AND THE TENANT WILL BE LIABLE FOR THE EXPENSES AND FEES
30 INCURRED IN CONNECTION WITH THE COLLECTION OF THE PAST DUE GROUND
31 RENT AS PROVIDED IN THIS SECTION.

32 (3) THE HOLDER OF THE GROUND RENT SHALL:

1 **(I) MAIL THE NOTICE BY FIRST-CLASS MAIL TO THE**
2 **TENANT'S LAST KNOWN ADDRESS AS SHOWN IN THE RECORDS OF THE STATE**
3 **DEPARTMENT OF ASSESSMENTS AND TAXATION; AND**

4 **(II) OBTAIN A CERTIFICATE OF MAILING FROM THE UNITED**
5 **STATES POSTAL SERVICE.**

6 14-108.1.

7 (a) This section does not apply to:

8 (1) A grantee action under § 14-109 of this subtitle;

9 (2) A landlord-tenant action that is within the exclusive original
10 jurisdiction of the District Court; **OR**

11 (3) [An action for nonpayment of ground rent under a ground lease on
12 residential property that is or was used, intended to be used, or authorized to be used
13 for four or fewer dwelling units; or

14 (4)] An action for wrongful detainer under § 14-132 of this subtitle.

15 (b) (1) A person who is not in possession of property and claims title and
16 right to possession may bring an action for possession against the person in possession
17 of the property.

18 (2) Encumbrance of property by a mortgage or deed of trust to secure a
19 debt does not prevent an action under this section by the owner of the property.

20 **(C) IN AN ACTION UNDER THIS SECTION FOR NONPAYMENT OF GROUND**
21 **RENT UNDER A GROUND LEASE ON RESIDENTIAL PROPERTY THAT IS OR WAS**
22 **USED, INTENDED TO BE USED, OR AUTHORIZED TO BE USED FOR FOUR OR**
23 **FEWER DWELLING UNITS, SERVICE OF PROCESS SHALL BE MADE BY:**

24 **(1) PERSONAL DELIVERY OF THE PAPERS TO THE LEASEHOLD**
25 **TENANT; OR**

26 **(2) LEAVING THE PAPERS WITH A RESIDENT OF SUITABLE AGE**
27 **AND DISCRETION AT THE LEASEHOLD TENANT'S DWELLING HOUSE OR USUAL**
28 **PLACE OF ABODE.**

29 **[(c)] (D) (1) THIS SUBSECTION DOES NOT APPLY TO AN ACTION FOR**
30 **NONPAYMENT OF GROUND RENT UNDER A GROUND LEASE ON RESIDENTIAL**

1 **PROPERTY THAT IS OR WAS USED, INTENDED TO BE USED, OR AUTHORIZED TO**
2 **BE USED FOR FOUR OR FEWER DWELLING UNITS.**

3 **(2)** When personal jurisdiction is not obtained over the defendant, the
4 plaintiff may obtain a default judgment under the Maryland Rules only on proof of
5 title and right to possession. The judgment shall be in rem for possession of the
6 property. Entry and enforcement of the judgment does not bar further pursuit, in the
7 same or another action, of the plaintiff's claim for mesne profits and damages.

8 14-116.1.

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

10 (2) "Ground lease" means a residential lease or sublease for a term of
11 years renewable forever subject to the payment of a periodic ground rent.

12 (3) (i) "Ground lease holder" means the holder of the reversionary
13 interest under a ground lease.

14 (ii) "Ground lease holder" includes an agent of the ground lease
15 holder.

16 (4) "Ground rent" means a rent issuing out of, or collectible in
17 connection with, the reversionary interest under a ground lease.

18 (5) "Leasehold interest" means the tenancy in real property created
19 under a ground lease.

20 (6) "Leasehold tenant" means the holder of the leasehold interest
21 under a ground lease.

22 (b) (1) This section applies to residential property that was or is used,
23 intended to be used, or authorized to be used for four or fewer dwelling units.

24 (2) This section does not apply to property:

25 (i) Leased for business, commercial, manufacturing, mercantile,
26 or industrial purposes, or any other purpose that is not primarily residential;

27 (ii) Improved or to be improved by any apartment,
28 condominium, cooperative, or other building for multifamily use of greater than four
29 dwelling units; or

30 (iii) Leased for dwellings or mobile homes that are erected or
31 placed in a mobile home development or mobile home park.

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

3 (1) The ground lease is registered with the State Department of
4 Assessments and Taxation under Title 8, Subtitle 7 of this article; and

5 (2) At least 60 days before the payment is due, the ground lease holder
6 mails a bill to the last known address of the leasehold tenant and to the address of the
7 property subject to the ground lease.

8 (d) The bill shall include a notice in boldface type, at least as large as 14
9 point, in substantially the following form:

10 “NOTICE REQUIRED BY MARYLAND LAW

11 REGARDING YOUR GROUND RENT

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

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

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

18 (name of ground lease holder)

19 (address)

20 (phone number)

21 NOTE REGARDING YOUR RIGHTS AND RESPONSIBILITIES UNDER
22 MARYLAND LAW:

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

31 If you fail to pay the ground rent on time, you are still responsible for paying the
32 ground rent. In addition, **IF** the ground lease holder [may take action] **FILES AN**
33 **ACTION IN COURT** to collect the past due ground rent, **YOU MAY BE REQUIRED TO**
34 **PAY THE GROUND LEASE HOLDER FOR FEES AND COSTS ASSOCIATED WITH THE**
35 **COLLECTION OF THE PAST DUE GROUND RENT. IN ADDITION, THE GROUND**
36 **LEASE HOLDER MAY ALSO FILE AN ACTION IN COURT TO TAKE POSSESSION OF**

1 **THE PROPERTY**, which may result **IN YOUR BEING RESPONSIBLE FOR**
2 **ADDITIONAL FEES AND COSTS AND** ultimately in your loss of the property. Please
3 note that under Maryland law, a ground lease holder may demand not more than 3
4 years of past due ground rent, **AND THERE ARE LIMITS ON HOW MUCH A GROUND**
5 **LEASE HOLDER MAY BE REIMBURSED FOR FEES AND COSTS.** If you fail to pay the
6 ground rent on time, you should contact a lawyer for advice.

7 As the owner of this property, you are entitled to redeem, or purchase, the ground
8 lease from the ground lease holder and obtain absolute ownership of the property. The
9 redemption amount is fixed by law but may also be negotiated with the ground lease
10 holder for a different amount. For information on redeeming the ground lease, contact
11 the ground lease holder. If the identity of the ground lease holder is unknown, the
12 State Department of Assessments and Taxation provides a process to redeem the
13 ground lease that may result in your obtaining absolute ownership of the property. If
14 you would like to obtain absolute ownership of this property, you should contact a
15 lawyer for advice.”.

16 14–117.

17 (a) (1) (i) In this subsection the following words have the meanings
18 indicated.

19 (ii) “Ground lease” means a residential lease or sublease for a
20 term of years renewable forever subject to the payment of a periodic ground rent.

21 (iii) 1. “Ground lease holder” means the holder of the
22 reversionary interest under a ground lease.

23 2. “Ground lease holder” includes an agent of the ground
24 lease holder.

25 (iv) “Ground rent” means a rent issuing out of, or collectible in
26 connection with, the reversionary interest under a ground lease.

27 (v) “Leasehold interest” means the tenancy in real property
28 created under a ground lease.

29 (vi) “Leasehold tenant” means the holder of the leasehold
30 interest under a ground lease.

31 (2) (i) This subsection applies to residential property that was or is
32 used, intended to be used, or authorized to be used for four or fewer dwelling units.

33 (ii) This subsection does not apply to property:

1 1. Leased for business, commercial, manufacturing,
2 mercantile, or industrial purposes, or any other purpose that is not primarily
3 residential;

4 2. Improved or to be improved by any apartment,
5 condominium, cooperative, or other building for multifamily use of greater than four
6 dwelling units; or

7 3. Leased for dwellings or mobile homes that are erected
8 or placed in a mobile home development or mobile home park.

9 (3) A contract for the sale of real property subject to a ground rent
10 shall contain the following notice in boldface type, at least as large as 14 point, in
11 substantially the following form:

12 “NOTICE REQUIRED BY MARYLAND LAW

13 REGARDING YOUR GROUND RENT

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

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

19 The payment of the ground rent should be sent to:
20 (name of ground lease holder)
21 (address)
22 (phone number)

23 NOTE REGARDING YOUR RIGHTS AND RESPONSIBILITIES UNDER
24 MARYLAND LAW:

25 As the owner of this property, you are obligated to pay the ground rent to the ground
26 lease holder. It is also your responsibility to notify the ground lease holder if you
27 change your address or transfer ownership of the property.

28 If you fail to pay the ground rent on time, you are still responsible for paying the
29 ground rent. In addition, **IF** the ground lease holder [may take action] **FILES AN**
30 **ACTION IN COURT** to collect the past due ground rent, **YOU MAY BE REQUIRED TO**
31 **PAY THE GROUND LEASE HOLDER FOR FEES AND COSTS ASSOCIATED WITH THE**
32 **COLLECTION OF THE PAST DUE GROUND RENT. IN ADDITION, THE GROUND**
33 **LEASE HOLDER MAY ALSO FILE AN ACTION IN COURT TO TAKE POSSESSION OF**
34 **THE PROPERTY,** which may result **IN YOUR BEING RESPONSIBLE FOR**
35 **ADDITIONAL FEES AND COSTS AND** ultimately in your loss of the property. Please

1 note that under Maryland law, a ground lease holder may demand not more than 3
2 years of past due ground rent, **AND THERE ARE LIMITS ON HOW MUCH A GROUND**
3 **LEASE HOLDER MAY BE REIMBURSED FOR FEES AND COSTS.** If you fail to pay the
4 ground rent on time, you should contact a lawyer for advice.

5 As the owner of this property, you are entitled to redeem, or purchase, the ground
6 lease from the ground lease holder and obtain absolute ownership of the property. The
7 redemption amount is fixed by law but may also be negotiated with the ground lease
8 holder for a different amount. For information on redeeming the ground lease, contact
9 the ground lease holder. If the identity of the ground lease holder is unknown, the
10 State Department of Assessments and Taxation provides a process to redeem the
11 ground lease that may result in your obtaining absolute ownership of the property. If
12 you would like to obtain absolute ownership of this property, you should contact a
13 lawyer for advice.”.

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
15 measure, is necessary for the immediate preservation of the public health or safety,
16 has been passed by a yea and nay vote supported by three-fifths of all the members
17 elected to each of the two Houses of the General Assembly, and shall take effect from
18 the date it is enacted.