

BY: Environmental Matters Committee

AMENDMENTS TO SENATE BILL 1095
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 6, after “property;” insert “reorganizing and recodifying certain provisions of law relating to ground leases on certain residential property; authorizing a holder of a secured interest in certain property to apply to redeem a reversion under a ground lease under certain circumstances; altering the contents of a certain affidavit made by a certain director in the Baltimore City Department of Housing and Community Development concerning abandoned or distressed property under certain circumstances; authorizing a ground lease holder to bring an action to reenter for nonpayment of ground rent only under certain circumstances; authorizing a holder of a secured interest in certain property to cure a default for nonpayment of ground rent under certain circumstances; requiring a ground lease holder to send certain notices to a leasehold tenant in a certain manner no less than a certain number of days before filing an action to reenter; authorizing a ground lease holder to be reimbursed for certain late fees, interest, and collection costs under certain circumstances; requiring a ground lease holder to send a copy of a certain notice to any holder of a secured interest in certain property under certain circumstances; requiring an action filed under certain provisions of this Act to be accompanied by certain documents; specifying the manner in which service of process must be made for an action filed under certain provisions of this Act; requiring a holder of a secured interest in certain property to be made a party to an action filed under certain provisions of this Act under certain circumstances; prohibiting a ground lease holder or a plaintiff from receiving a writ of possession or reimbursement for certain costs or expenses unless certain notice requirements are met; prohibiting a ground lease holder from receiving reimbursement for certain costs or expenses under certain circumstances;”; and strike beginning with “prohibiting” in line 7 down through “property;” in line 24.

(Over)

On page 2, strike beginning with “altering” in line 2 down through “period;” in line 4 and substitute “repealing certain provisions of law made obsolete by this Act; making stylistic changes; defining certain terms; requiring the State Department of Assessments and Taxation to develop and post a certain notice on the Department’s Web site;”; in line 6, strike “providing for the effective date of a certain provision of this Act;”; in line 15, strike “8-107.” and substitute “8-110, 8-110.1.”; in the same line, strike “8-402.2, 14-108.1” and substitute “8-111.2, 8-707, 14-116”; in the same line, strike “and 14-117(a)” and substitute “14-116.2, 14-117(a), and 14-129”; after line 17, insert:

“BY adding to

Article - Real Property

Section 8-801, 8-802, and 8-807 to be under the new subtitle “Subtitle 8.

Residential Ground Leases”

Annotated Code of Maryland

(2010 Replacement Volume and 2013 Supplement)”;

in line 20, strike “8-111.2” and substitute “14-108.1”; and strike in their entirety lines 23 through 27, inclusive.

AMENDMENT NO. 2

On page 3, in line 8, strike “SEMIANNUAL” and substitute “PERIODIC”.

On page 5, after line 21, insert:

“8-707.

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

- (1) Collect any ground rent payments due under 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) [Obtain a lien under § 8-402.3 of this title] BRING AN ACTION AGAINST THE LEASEHOLD TENANT UNDER SUBTITLE 8 OF THIS TITLE.

SUBTITLE 8. RESIDENTIAL GROUND LEASES.

8-801.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “GROUND LEASE” MEANS A RESIDENTIAL LEASE OR SUBLEASE FOR A TERM OF YEARS RENEWABLE FOREVER SUBJECT TO THE PAYMENT OF A PERIODIC GROUND RENT.

(C) (1) “GROUND LEASE HOLDER” MEANS THE HOLDER OF THE REVERSIONARY INTEREST UNDER A GROUND LEASE.

(2) “GROUND LEASE HOLDER” INCLUDES AN AGENT OF THE GROUND LEASE HOLDER.

(D) “GROUND RENT” MEANS A RENT ISSUING OUT OF, OR COLLECTIBLE IN CONNECTION WITH, THE REVERSIONARY INTEREST UNDER A GROUND LEASE.

(E) “LEASEHOLD INTEREST” MEANS THE TENANCY IN REAL PROPERTY CREATED UNDER A GROUND LEASE.

(F) "LEASEHOLD TENANT" MEANS THE HOLDER OF THE LEASEHOLD INTEREST UNDER A GROUND LEASE.

8-802.

(A) THIS SUBTITLE APPLIES TO RESIDENTIAL PROPERTY THAT WAS OR IS USED, INTENDED TO BE USED, OR AUTHORIZED TO BE USED FOR FOUR OR FEWER DWELLING UNITS.

(B) THIS SUBTITLE DOES NOT APPLY TO PROPERTY:

(1) LEASED FOR BUSINESS, COMMERCIAL, MANUFACTURING, MERCANTILE, OR INDUSTRIAL PURPOSES, OR ANY OTHER PURPOSE THAT IS NOT PRIMARILY RESIDENTIAL;

(2) IMPROVED OR TO BE IMPROVED BY ANY APARTMENT, CONDOMINIUM, COOPERATIVE, OR OTHER BUILDING FOR MULTIFAMILY USE OF GREATER THAN FOUR DWELLING UNITS; OR

(3) LEASED FOR DWELLINGS OR MOBILE HOMES THAT ARE ERECTED OR PLACED IN A MOBILE HOME DEVELOPMENT OR MOBILE HOME PARK.

[8-111.2.] 8-803.

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

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

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

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

(4) Subject] THAT IS SUBJECT to an affordable housing land trust agreement executed under Title 14, Subtitle 5 of this article.

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

[8-110.] 8-804.

(a) (1) [This section does not apply to leases of property leased for business, commercial, manufacturing, mercantile, or industrial purposes or any other purpose which is not primarily residential, where the term of the lease, including all renewals provided for, does not exceed 99 years. A lease of the entire property improved or to be improved by any apartment, condominium, cooperative, or other building for multiple-family use on the property constitutes a business and not a residential purpose. The term "multiple-family use" does not apply to any duplex or single-family structure converted to a multiple-dwelling unit.

(2) Except as provided in subsection (f) of this section, this section does not apply to irredeemable **GROUND** leases [executed before April 9, 1884] **PRESERVED UNDER § 8-805 OF THIS SUBTITLE.**

[(3) This section does not apply to leases of the ground or site upon which dwellings or mobile homes are erected or placed in a mobile home development or mobile home park.]

[(4) (2) This section does not apply to an affordable housing land trust agreement executed under Title 14, Subtitle 5 of this article.]

(b) (1) Except for apartment and cooperative leases, any reversion reserved in a GROUND lease for longer than 15 years is redeemable at any time, at the option of the LEASEHOLD tenant, after 30 days' notice to the [landlord] GROUND LEASE HOLDER. Notice shall be given by certified mail, return receipt requested, and by first-class mail to the last known address of the [landlord] GROUND LEASE HOLDER.

(2) The reversion is redeemable:

(i) For a sum equal to the annual GROUND rent reserved multiplied by:

1. 25, which is capitalization at 4 percent, if the GROUND lease was executed from April 8, 1884 to April 5, 1888, both inclusive;

2. 8.33, which is capitalization at 12 percent, if the GROUND lease was or is created after July 1, 1982; or

3. 16.66, which is capitalization at 6 percent, if the GROUND lease was created at any other time;

(ii) For a lesser sum if specified in the GROUND lease; or

(iii) For a sum to which the parties may agree at the time of redemption.

(3) (I) IF THE LEASEHOLD TENANT IS IN DEFAULT UNDER A SECURITY INSTRUMENT, THE HOLDER OF THE SECURED INTEREST IN THE PROPERTY THAT IS SUBJECT TO A GROUND LEASE, OR ANY PORTION OF A GROUND LEASE, THAT IS RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED MAY APPLY TO THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION TO REDEEM THE REVERSION AS PROVIDED UNDER THIS SECTION.

(II) IF A HOLDER OF A SECURED INTEREST APPLIES TO REDEEM A REVERSION AS AUTHORIZED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE HOLDER ALSO SHALL PAY TO THE GROUND LEASE HOLDER THE OUTSTANDING AMOUNT DUE, INCLUDING REASONABLE LATE FEES, INTEREST, AND COLLECTION COSTS AS PROVIDED UNDER § 8-807 OF THIS SUBTITLE.

(c) If a LEASEHOLD tenant has power to redeem the reversion from a trustee or other person who does not have a power of sale, the reversion nevertheless may be redeemed in accordance with the procedures prescribed in the Maryland Rules.

(d) Notwithstanding subsection (b) of this section, any regulatory changes made by a federal agency, instrumentality, or subsidiary, including the Department of Housing and Urban Development, the Federal Housing Administration, the Government National Mortgage Association, the Federal National Mortgage Association, and the Veterans' Administration, shall be applicable to redemption of reversions of GROUND leases for longer than 15 years.

(Over)

(e) (1) Before the entry of a judgment foreclosing [an owner's] A LEASEHOLD TENANT'S right of redemption, a reversion in a ground rent or GROUND lease for 99 years renewable forever held on abandoned property in Baltimore City, as defined in § 14-817 of the Tax – Property Article, may be donated to Baltimore City or, at the option of Baltimore City, to an entity designated by Baltimore City.

(2) Valuation of the donation of a reversionary interest pursuant to this subsection shall be in accordance with subsection (b) of this section.

(f) (1) (i) A LEASEHOLD tenant who has given the [landlord] GROUND LEASE HOLDER notice in accordance with subsection (b) of this section may apply to the State Department of Assessments and Taxation to redeem a ground rent as provided in this subsection.

(ii) When the Mayor and City Council of Baltimore City acquires property that is subject to an irredeemable ground rent, the City shall become the LEASEHOLD tenant of the ground rent and, after giving the [landlord] GROUND LEASE HOLDER notice in accordance with subsection (b) of this section, may apply to the State Department of Assessments and Taxation to extinguish the ground rent as provided in this subsection.

(iii) When the Mayor and City Council of Baltimore City acquires abandoned or distressed property that is subject to a redeemable ground rent, the City shall become the LEASEHOLD tenant of the ground rent and, after giving the [landlord] GROUND LEASE HOLDER notice in accordance with subsection (b) of this section, may apply to the State Department of Assessments and Taxation to redeem the ground rent as provided in this subsection.

(2) The LEASEHOLD tenant shall provide to the State Department of Assessments and Taxation:

(i) Documentation satisfactory to the Department of the GROUND lease and the notice given to the [landlord] GROUND LEASE HOLDER; and

(ii) Payment of a \$20 fee, and any expediting fee required under § 1–203 of the Corporations and Associations Article.

(3) (i) On receipt of the items stated in paragraph (2) of this subsection, the Department shall post notice on its website that application has been made to redeem or extinguish the ground rent.

(ii) The notice shall remain posted for at least 90 days.

(4) Except as provided in paragraph (5) of this subsection, no earlier than 90 days after the application has been posted as provided in paragraph (3) of this subsection, a LEASEHOLD tenant seeking to redeem a ground rent shall provide to the Department:

(i) Payment of the redemption amount and up to 3 years' back GROUND rent to the extent required under this section and [§ 8–111.1] § 8-806 of this subtitle, in a form satisfactory to the Department; and

(ii) An affidavit made by the LEASEHOLD tenant, in the form adopted by the Department, certifying that:

1. The LEASEHOLD tenant has not received a bill for ground rent due or other communication from the [landlord] GROUND LEASE HOLDER regarding the ground rent during the 3 years immediately before the filing of the documentation required for the issuance of a redemption certificate under this subsection; or

2. The last payment for ground rent was made to the [landlord] GROUND LEASE HOLDER identified in the affidavit and sent to the same address where the notice required under subsection (b) of this section was sent.

(5) No earlier than 90 days after the application has been posted as provided in paragraph (3) of this subsection, a LEASEHOLD tenant seeking to extinguish an irredeemable ground rent or to redeem a redeemable ground rent on abandoned or distressed property that was acquired or is being acquired by the Mayor and City Council of Baltimore shall provide to the Department:

(i) Payment of up to 3 years' back GROUND rent to the extent required under this section and [§ 8-111.1] § 8-806 of this subtitle, in a form satisfactory to the Department; and

(ii) An affidavit made by the Director of the Office of Property Acquisition and Relocation in the Baltimore City Department of Housing and Community Development certifying that:

1. The property is abandoned property, as defined in § 21-17(a)(2) of the Public Local Laws of Baltimore City, or distressed property, as defined in § 21-17(a)(3) of the Public Local Laws of Baltimore City;

2. The property was acquired or is being acquired by the Mayor and City Council of Baltimore City; AND

3. [The landlord of the property has not registered the ground lease with the State Department of Assessments and Taxation under Subtitle 7 of this title; and

4.] The existence of the ground rent is an impediment to redevelopment of the site.

(6) At any time, the LEASEHOLD tenant may submit to the Department notice that the LEASEHOLD tenant is no longer seeking redemption or extinguishment under this subsection.

(7) Upon receipt of the documentation, fees, and, where applicable, the redemption amount and 3 years' back GROUND rent to the extent required under this section and [§ 8-111.1] § 8-806 of this subtitle, the Department shall issue to the LEASEHOLD tenant a ground rent redemption certificate or a ground rent extinguishment certificate, as appropriate.

(8) The redemption or extinguishment of the ground rent is effective to conclusively vest a fee simple title in the LEASEHOLD tenant, free and clear of any and all right, title, or interest of the [landlord] GROUND LEASE HOLDER, any lien of a creditor of the [landlord] GROUND LEASE HOLDER, and any person claiming by, through, or under the [landlord] GROUND LEASE HOLDER when the LEASEHOLD tenant records the certificate in the land records of the county in which the property is located.

(9) The [landlord] GROUND LEASE HOLDER, any creditor of the [landlord] GROUND LEASE HOLDER, or any other person claiming by, through, or under the [landlord] GROUND LEASE HOLDER may file a claim with the Department in order to collect all, or any portion of, where applicable, the redemption amount and 3 years' back GROUND rent to the extent required under this section and [§ 8-111.1] § 8-806 of this subtitle, without interest, by providing to the Department:

(i) Documentation satisfactory to the Department of the claimant's interest; and

(ii) Payment of a \$20 fee, and any expediting fee required under § 1-203 of the Corporations and Associations Article.

(Over)

(10) (i) A [landlord] GROUND LEASE HOLDER whose ground rent has been extinguished may file a claim with the Baltimore City Director of Finance to collect an amount equal to the annual GROUND rent reserved multiplied by 16.66, which is capitalization at 6 percent, by providing to the Director:

1. Proof of payment to the [landlord] GROUND LEASE HOLDER by the Department of back GROUND rent under paragraph (9) of this subsection; and

2. Payment of a \$20 fee.

(ii) A [landlord] GROUND LEASE HOLDER of abandoned or distressed property acquired by the Mayor and City Council of Baltimore City whose ground rent has been redeemed may file a claim with the Baltimore City Director of Finance to collect the redemption amount, by providing to the Director:

1. Proof of payment to the [landlord] GROUND LEASE HOLDER by the Department of back GROUND rent under paragraph (9) of this subsection; and

2. Payment of a \$20 fee.

(11) (i) In the event of a dispute regarding the extinguishment amount as calculated under paragraph (10)(i) of this subsection, the [landlord] GROUND LEASE HOLDER may refuse payment from the Baltimore City Director of Finance and file an appeal regarding the valuation in the Circuit Court of Baltimore City.

(ii) In an appeal, the [landlord] GROUND LEASE HOLDER is entitled to receive the fair market value of the [landlord's] GROUND LEASE HOLDER'S interest in the property at the time of the extinguishment.

(12) In the event of a dispute regarding the payment by the Department to any person of all or any portion of the collected redemption amount and up to 3 years' back GROUND rent to the extent required by this section and [§ 8-111.1] § 8-806 of this subtitle, the Department may:

(i) File an interpleader action in the circuit court of the county where the property is located; or

(ii) Reimburse the [landlord] GROUND LEASE HOLDER from the fund established in § 1-203.3 of the Corporations and Associations Article.

(13) The Department is not liable for any sum received by the Department that exceeds the sum of:

(i) The redemption amount; and

(ii) Up to 3 years' back GROUND rent to the extent required by this section and [§ 8-111.1] § 8-806 of this subtitle.

(14) The Department shall credit all fees and funds collected under this subsection to the fund established under § 1-203.3 of the Corporations and Associations Article. Redemption and extinguishment amounts received shall be held in a ground rent redemption and ground rent extinguishment account in that fund.

(15) The Department shall maintain a list of properties for which ground rents have been redeemed or extinguished under this subsection.

(16) The Department shall adopt regulations to carry out the provisions of this subsection.

(17) Any redemption or extinguishment funds not collected by a [landlord] GROUND LEASE HOLDER under this subsection within 20 years after the date of the payment to the Department by the LEASEHOLD tenant shall escheat to the State. The Department shall annually transfer any funds that remain uncollected after 20 years to the State General Fund at the end of each fiscal year.

[8-110.1.] 8-805.

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

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

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

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

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

(5) "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.

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

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

~~(8)~~ **(3)** “Redeemable ground rent” means a ground rent that may be redeemed in accordance with this section or redeemed or extinguished in accordance with ~~§ 8–110(f)~~ § 8-804(F) of this subtitle.

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

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

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

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

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

~~(c)~~ ~~(1)~~ An irredeemable ground rent shall be converted to, and become, a redeemable ground rent, unless within the time specified in subsection ~~[(f)](E)~~ of this section, a notice of intention to preserve irredeemability is recorded.

~~(2)~~ The conversion of an irredeemable ground rent to a redeemable ground rent occurs on the day following the end of the period in which the notice may be recorded.

(3) A disability or lack of knowledge of any kind does not prevent the conversion of an irredeemable ground rent to a redeemable ground rent if no notice of intention to preserve irredeemability is filed within the time specified in subsection [(f)](E) of this section.

[(d)] (C) (1) Any ground lease holder of an irredeemable ground rent may record a notice of intention to preserve irredeemability among the land records of the county where the land is located.

(2) The notice may be recorded by:

(i) The person claiming to be the ground lease holder; or

(ii) If the ground lease holder is under a disability or otherwise unable to assert a claim on the ground lease holder's own behalf, any other person acting on the ground lease holder's behalf.

[(e)] (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:

(i) An accurate description of the leasehold interest affected by the notice, including, if known, the property improvement address;

(ii) The name of every ground lease holder of an irredeemable ground rent;

(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;

(iv) The recording reference of the ground lease;

(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;

(vi) The recording reference of every irredeemable ground rent ground lease holder's deed; and

(vii) The block number for the leasehold interest if the property is located in Baltimore City.

(2) (i) A notice that substantially meets the requirements of this section shall be accepted for recording among the land records on payment of the same fees as are charged for the recording of deeds.

(ii) The filing of a notice is exempt from the imposition of a State or local excise tax.

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

(i) In the grantee indices of deeds under the name of every ground lease holder of an irredeemable ground rent;

(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

(iii) In the block index in Baltimore City.

[(f)] (E) (1) To preserve the irredeemability of an irredeemable ground rent, a notice of intention to preserve shall be recorded on or before December 31, 2010.

(2) If a notice of intention to preserve is not recorded on or before December 31, 2010, the ground rent becomes a redeemable ground rent.

(3) If a notice is recorded on or before December 31, 2010, the ground rent shall remain irredeemable for a period of 10 years from January 1, 2011, to December 31, 2020, both inclusive.

(4) (i) The effectiveness of a filed notice to preserve irredeemability shall lapse on January 1, 2021, and the ground rent shall become a redeemable ground rent, unless a renewal notice containing substantially the same information as the notice of intention to preserve irredeemability is recorded within 6 months before the expiration of the 10–year period set forth in paragraph (3) of this subsection.

(ii) The effectiveness of any subsequently filed renewal notice shall lapse after the expiration of the applicable 10–year period and the ground rent shall become a redeemable ground rent, unless further renewal notices are recorded within 6 months before the expiration of the applicable 10–year period.

[(g)] (F) A ground rent made redeemable in accordance with this section:

(1) Is redeemable at any time following the date of conversion of the irredeemable ground rent to a redeemable ground rent; and

(2) Shall be redeemable for a sum equal to the annual rent reserved multiplied by 16.66, which is capitalization at 6 percent.”.

AMENDMENT NO. 3

On page 5, in line 22, strike “8-111.1.” and substitute “**8-806.**”; strike beginning with “This” in line 23 down through “(b)” in line 27; in lines 27 and 28, in each instance, strike “landlord” and substitute “**GROUND LEASE HOLDER**”; in line 28, strike “leased property” and substitute “**PROPERTY SUBJECT TO A GROUND LEASE**”; in lines 28 and 30, in each instance, strike “back” and substitute “**PAST DUE GROUND**”; and in line 29, strike “in leased property”.

On page 6, in line 1, strike “(C)” and substitute “(B)”; strike beginning with “IN” in line 1 down through “LANDLORD” in line 2 and substitute “**A GROUND LEASE HOLDER**”; in line 3, strike “BACK” and substitute “**PAST DUE GROUND**”; in line 4, after “RENT” insert “**PAYABLE UNDER SUBSECTION (A) OF THIS SECTION**”; in the same line, strike “**§§ 8-402.2 AND 8-402.3 OF THIS TITLE**” and substitute “**§ 8-807 OF THIS SUBTITLE**”; in line 5, strike the brackets; in the same line, strike “(D)”; in lines 6 and 7, in each instance, strike “back” and substitute “**PAST DUE GROUND**”; in line 6, strike “landlord or holder of a ground rent” and substitute “**GROUND LEASE HOLDER**”; in line 14, strike “landlord” and substitute “**GROUND LEASE HOLDER**”; and in lines 15 and 17, in each instance, strike “rent” and substitute “**LEASE**”.

On pages 6 through 12, strike in their entirety the lines beginning with line 18 on page 6 through line 7 on page 12, inclusive, and substitute:

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 TO REENTER FOR NONPAYMENT OF GROUND RENT ONLY:

(1) IF THE GROUND LEASE HOLDER HAS THE LAWFUL RIGHT TO REENTER FOR NONPAYMENT OF GROUND RENT;

(Over)

(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.

(B) A HOLDER OF A SECURED INTEREST IN THE PROPERTY THAT IS SUBJECT TO THE GROUND LEASE, OR ANY PORTION OF THE GROUND LEASE, THAT IS RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED MAY CURE THE DEFAULT BY PAYING THE OUTSTANDING AMOUNT DUE, INCLUDING REASONABLE LATE FEES, INTEREST, AND COLLECTION COSTS SUBJECT TO THE SAME PROVISIONS THAT ARE APPLICABLE TO A LEASEHOLD TENANT WHO CURES A DEFAULT AFTER RECEIVING NOTICE UNDER SUBSECTION (D) OF THIS SECTION OR RECEIVING PERSONAL SERVICE OF PROCESS IN AN ACTION FILED UNDER SUBSECTION (F) OF THIS SECTION.

(C) (1) NO LESS THAN 60 DAYS BEFORE FILING AN ACTION TO REENTER, 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 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; AND

(II) CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

(2) 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) A GROUND LEASE HOLDER MAY BE REIMBURSED FOR REASONABLE LATE FEES, INTEREST, AND COLLECTION COSTS NOT EXCEEDING \$100, PROVIDED THE OUTSTANDING AMOUNT DUE IS PAID IN RESPONSE TO THE NOTICE SENT UNDER PARAGRAPH (1) OF THIS SUBSECTION AND BEFORE A NOTICE IS SENT UNDER SUBSECTION (D) OF THIS SECTION.

(D) (1) AFTER NOTICE HAS BEEN SENT UNDER SUBSECTION (C) OF THIS SECTION AND NO LESS THAN 30 DAYS BEFORE FILING AN ACTION TO REENTER, 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 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; AND

(II) CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE IN 14 POINT, BOLD FONT AND INCLUDE:

(I) AN ITEMIZED BILL FOR THE PAYMENT DUE;

(II) THE AMOUNT NECESSARY TO CURE THE DEFAULT, INCLUDING LATE FEES, INTEREST, AND COLLECTION COSTS AUTHORIZED UNDER PARAGRAPH (3) OF THIS SUBSECTION;

(III) THE NAME AND ADDRESS OF THE PERSON TO WHOM TO SEND THE PAYMENT DUE;

(IV) THE NAME AND CONTACT INFORMATION OF THE PERSON TO CONTACT FOR QUESTIONS ABOUT THE NOTICE; AND

(V) A STATEMENT THAT UNLESS THE DEFAULT IS CURED IN 30 DAYS:

1. THE GROUND LEASE HOLDER INTENDS TO FILE AN ACTION TO REENTER; AND

2. 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 TO REENTER.

(3) A GROUND LEASE HOLDER MAY BE REIMBURSED FOR REASONABLE LATE FEES, INTEREST, AND COLLECTION COSTS NOT EXCEEDING \$650, INCLUDING:

(I) TITLE ABSTRACT AND EXAMINATION FEES;

(II) JUDGMENT REPORT COSTS;

(III) PHOTOCOPYING AND POSTAGE FEES; AND

(IV) ATTORNEY'S FEES.

(E) (1) THE GROUND LEASE HOLDER SHALL SEND A COPY OF THE NOTICE REQUIRED UNDER SUBSECTION (D) OF THIS SECTION TO ANY HOLDER OF A SECURED INTEREST IN THE PROPERTY THAT IS SUBJECT TO THE GROUND LEASE, OR ANY PORTION OF THE GROUND LEASE, THAT IS RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED, TO THE ADDRESS SHOWN IN THE LAND RECORDS OR ANOTHER ADDRESS IF KNOWN, BY:

(I) FIRST-CLASS MAIL; AND

(II) CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE ACCOMPANIED BY A STATEMENT THAT THE HOLDER OF A SECURED INTEREST MAY:

(I) CURE THE DEFAULT BY PAYING THE OUTSTANDING AMOUNT DUE, INCLUDING REASONABLE LATE FEES, INTEREST, AND COLLECTION COSTS AUTHORIZED UNDER SUBSECTION (D)(3) OF THIS SECTION; OR

(II) 1. REDEEM THE PROPERTY IN ACCORDANCE WITH § 8-804 OF THIS SUBTITLE; AND

2. CURE THE DEFAULT BY PAYING THE OUTSTANDING AMOUNT DUE, INCLUDING REASONABLE LATE FEES, INTEREST,

(Over)

AND COLLECTION COSTS AUTHORIZED UNDER SUBSECTION (D)(3) OF THIS SECTION.

(3) IF NOTICE IS NOT SENT TO A HOLDER OF A SECURED INTEREST IN THE PROPERTY THAT IS SUBJECT TO THE GROUND LEASE, OR ANY PORTION OF THE GROUND LEASE, THAT IS RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED, A JUDGMENT IN FAVOR OF THE GROUND LEASE HOLDER DOES NOT IMPAIR THE RIGHT OF THE HOLDER OF THE SECURED INTEREST TO ENFORCE THE SECURED INTEREST AGAINST THE PROPERTY.

(F) (1) IF THE DEFAULT IS NOT CURED, THE GROUND LEASE HOLDER MAY FILE IN CIRCUIT COURT AN ACTION TO REENTER NO LESS THAN 30 DAYS AFTER NOTICE IS SENT UNDER SUBSECTION (D) OF THIS SECTION.

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

(I) AN ITEMIZED BILL FOR THE PAYMENT DUE;

(II) THE AMOUNT NECESSARY TO CURE THE DEFAULT, INCLUDING REASONABLE LATE FEES, INTEREST, AND COLLECTION COSTS AUTHORIZED UNDER PARAGRAPH (3) OF THIS SUBSECTION;

(III) THE NAME AND ADDRESS OF THE PERSON TO WHOM TO SEND THE PAYMENT DUE;

(IV) AN AFFIDAVIT AFFIRMING COMPLIANCE WITH THE NOTICE REQUIREMENTS UNDER SUBSECTIONS (B), (C), AND (D) OF THIS

SECTION, INCLUDING COPIES OF THE PROOFS OF MAILING FROM THE UNITED STATES POSTAL SERVICE; AND

(V) A LIST OF EACH HOLDER OF A SECURED INTEREST IN THE PROPERTY THAT IS SUBJECT TO THE GROUND LEASE, OR ANY PORTION OF THE GROUND LEASE, THAT IS RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

(3) A GROUND LEASE HOLDER MAY BE REIMBURSED FOR REASONABLE LATE FEES, INTEREST, AND COLLECTION COSTS, INCLUDING:

(I) FILING FEES AND COURT COSTS;

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

(III) REASONABLE ATTORNEY'S FEES NOT EXCEEDING \$500;

AND

(IV) TAXES, INCLUDING INTEREST AND PENALTIES, THAT HAVE BEEN PAID BY THE GROUND LEASE HOLDER OR PLAINTIFF.

(G) (1) PERSONAL SERVICE OF PROCESS IN AN ACTION FILED UNDER SUBSECTION (F) OF THIS SECTION SHALL BE MADE IN ACCORDANCE WITH THE MARYLAND RULES.

(2) THE INDIVIDUAL MAKING SERVICE OF PROCESS UNDER THIS SUBSECTION SHALL FILE PROOF OF SERVICE WITH THE COURT IN ACCORDANCE WITH THE MARYLAND RULES.

(Over)

(H) (1) A HOLDER OF A SECURED INTEREST IN THE PROPERTY THAT IS SUBJECT TO THE GROUND LEASE, OR ANY PORTION OF THE GROUND LEASE, THAT IS RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED, SHALL BE MADE A PARTY, AS PROVIDED UNDER THE MARYLAND RULES, TO AN ACTION FILED UNDER SUBSECTION (F) OF THIS SECTION.

(2) THE GROUND LEASE HOLDER SHALL SEND TO EACH HOLDER OF A SECURED INTEREST THAT IS MADE A PARTY TO THE ACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION A STATEMENT THAT THE HOLDER OF A SECURED INTEREST MAY:

(I) CURE THE DEFAULT BY PAYING THE OUTSTANDING AMOUNT DUE, INCLUDING REASONABLE LATE FEES, INTEREST, AND COLLECTION COSTS AUTHORIZED UNDER SUBSECTION (F)(3) OF THIS SECTION;
OR

(II) 1. REDEEM THE PROPERTY IN ACCORDANCE WITH § 8-804 OF THIS SUBTITLE; AND

2. CURE THE DEFAULT BY PAYING THE OUTSTANDING AMOUNT DUE, INCLUDING REASONABLE LATE FEES, INTEREST, AND COLLECTION COSTS AUTHORIZED UNDER SUBSECTION (F)(3) OF THIS SECTION.

(3) IF A HOLDER OF A SECURED INTEREST IS NOT MADE A PARTY TO THE ACTION AS PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION, A JUDGMENT IN FAVOR OF THE GROUND LEASE HOLDER DOES NOT IMPAIR THE

RIGHT OF THE HOLDER OF THE SECURED INTEREST TO ENFORCE THE SECURED INTEREST AGAINST THE PROPERTY.

(I) (1) EXCEPT AS PROVIDED IN THIS SECTION, A GROUND LEASE HOLDER OR PLAINTIFF IS NOT ENTITLED TO REIMBURSEMENT FOR ANY COSTS OR EXPENSES RELATED TO THE COLLECTION OF GROUND RENT.

(2) A GROUND LEASE HOLDER OR PLAINTIFF MAY NOT RECEIVE A WRIT OF POSSESSION OR REIMBURSEMENT FOR ANY COSTS OR EXPENSES RELATED TO THE COLLECTION OF GROUND RENT UNLESS ALL THE NOTICE REQUIREMENTS OF THIS SECTION ARE MET.

(J) IF A GROUND LEASE HOLDER RECEIVES AND EXECUTES A WRIT OF POSSESSION, THE GROUND LEASE HOLDER MAY NOT RECEIVE REIMBURSEMENT FOR ANY COSTS OR EXPENSES RELATED TO THE COLLECTION OF GROUND RENT, INCLUDING ANY LATE FEES, INTEREST, OR COLLECTION COSTS SPECIFIED IN SUBSECTION (C)(3), (D)(3), OR (F)(3) OF THIS SECTION.

(K) THIS SECTION DOES NOT PRECLUDE A GROUND LEASE HOLDER FROM USING OTHER LEGAL MEANS TO ENFORCE A GROUND LEASE.”.

On page 17, before line 9, insert:

“14-108.1.

(a) This section does not apply to:

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

(Over)

(2) A landlord–tenant action that is within the exclusive original jurisdiction of the District Court;

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

(4) An action for wrongful detainer under § 14–132 of this article.

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

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

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

AMENDMENT NO. 4

On page 12, after line 7, insert:

“[14–116.] 8-808.

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

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

(3) (i) “Ground lease holder” means the holder of the reversionary interest under a ground lease.

(ii) “Ground lease holder” includes an agent of the ground lease holder.

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

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

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

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

(2) This section does not apply to property:

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

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

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

(c) Within 30 days of any change of address of a leasehold tenant, the leasehold tenant shall notify the ground lease holder of the change, including the new address and the date of the change.

[(d)] (B) Within 30 days of any transfer of [improvements located] A LEASEHOLD INTEREST on property subject to a ground [rent] LEASE, the leasehold tenant shall notify the ground lease holder of the transfer. The notification shall include the name and address of the transferee, and date of transfer.

[(e)] (C) A leasehold tenant shall send notice under this section to the last known address of the ground lease holder.”;

in line 8, strike “14-116.1.” and substitute “8-809.”; strike beginning with “(1)” in line 9 down through “park.” in line 31.

On page 13, in line 1, strike “(c)”; and in line 8, strike “(d)” and substitute “(B)”.

On page 14, strike beginning with “The” in line 8 down through “THE” in line 23 and substitute “UNLESS YOU AND THE GROUND LEASE HOLDER AGREE TO A LESSER AMOUNT, THE”; and after line 28, insert:

“[14-116.2.] 8-810.”

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

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

(3) (i) “Ground lease holder” means the holder of the reversionary interest under a ground lease.

(ii) “Ground lease holder” includes an agent of the ground lease holder.

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

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

(6) “Redeemable ground rent” means a ground rent that may be redeemed in accordance with § 8–110 of this article.

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

(2) This section does not apply to property:

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

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

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

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

[(d)] (B) (1) The notification shall include the name and address of the new ground lease holder and the date of the transfer.

(Over)

(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.”

[(e)] (C) A ground lease holder shall send notice under this section to the last known address of the leasehold tenant.”

On pages 14 and 15, strike beginning with “(a)” in line 30 on page 14 down through “park.” in line 21 on page 15.

On page 15, after line 21, insert “8-811.”; and in line 22, strike “(3)”.

On page 17, after line 8, insert:

“[14–129.] 8-812.

(a) This section does not apply to a:

(1) Home equity line of credit;

(2) Loan secured by an indemnity deed of trust; or

(3) Commercial loan.

(b) Before the settlement of a loan secured by a mortgage or deed of trust on residential real property improved by four or fewer single-family units that is subject to a redeemable ground rent, the settlement agent shall notify the borrower that:

(1) The borrower has the right to redeem the ground rent under [§ 8–110] § 8-804 of this [article] SUBTITLE;

(2) The redemption amount is fixed by law but may also be negotiated with the ground lease holder for a different amount;

(3) It may be possible to include the amount of the redemption in this loan;

(4) For information on redeeming the ground rent, the borrower should contact the ground lease holder; and

(5) For information on including the amount of the redemption in this loan, the borrower should contact the lender or credit grantor making this loan.”.

AMENDMENT NO. 5

On page 17, strike in their entirety lines 9 through 25, inclusive, and substitute:

“SECTION 3. AND BE IT FURTHER ENACTED, That the State Department of Assessments and Taxation shall develop and post on the Department’s Web site a sample notice for use in complying with the provisions of § 8-807(c) of the Real Property Article, as enacted by Section 2 of this Act, that is in at least 14 point, bold font, and provides for the inclusion of:

(1) an itemized bill for the amount of payment due;

(Over)

(2) the amount necessary to cure the default, including late fees, interest, and collection costs as authorized under § 8-807(c)(3) of the Real Property Article, as enacted by Section 2 of this Act;

(3) the name and address of the person to whom to send the payment due;

(4) the name and contact information of the person to contact for questions about the notice;

(5) a statement that unless the default is cured in 60 days:

(i) the ground lease holder intends to file an action to reenter;
and

(ii) the leasehold tenant may be liable for reimbursing the ground lease holder for reasonable late fees, interest, and collection costs incurred in connection with the collection of past due ground rent and the filing of an action to reenter; and

(6) information about the Ground Rent Redemption Loan Program in the Department of Housing and Community Development.”;

strike beginning with “AND” in line 29 down through “6.” in line 31; and in lines 31 and 32, strike “, except as provided in Section 5 of this Act.”.