

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 108

(Senator Kelley, *et al.*)

Judicial Proceedings

Real Property - Ground Rents - Ejectments

This bill reduces the amounts that a holder of a ground rent in arrears is entitled to receive reimbursement for: (1) collecting the past due rent and complying with notice requirements, from \$500 to \$200; (2) additional title abstraction and examination fees incurred in bringing an ejectment action, from \$300 to \$200; and (3) the attorney's fees in bringing an ejectment action from, \$700 to \$400. The bill also increases the period, from 30 to 45 days before taking action, by which the holder must give the required notice to the tenant before the holder may be eligible for reimbursement for expenses. Finally, the bill requires that the notice be posted on the subject property, in addition to being mailed to the tenant.

Fiscal Summary

State Effect: Reducing the allowable reimbursements for collecting past due ground rent and bringing an ejectment action would not materially affect the finances or operations of the Judiciary.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: For property subject to a ground lease, a landlord may bring an action for possession of the property 45 days after sending a bill for the ground rent by certified mail return receipt requested, to the tenant's last known address when: (1) at least six months ground rent is in arrears; and (2) the landlord has the right to reenter for

nonpayment of the rent. If the tenant cannot be personally served or there is no tenant in actual possession of the property, service may be made by posting notice as prescribed under the Maryland Rules.

In a suit for back rent on a ground lease, a landlord may demand or recover up to three years back rent. A person who is not in possession of property and who claims title and right to possession may bring an action against the person in possession of the property. The owner of the property is not prevented from bringing an action for possession by a mortgage or deed of trust to secure a debt. If personal jurisdiction cannot be obtained over the defendant, the plaintiff may obtain a default judgment.

A holder of a ground rent (technically the lease) that is at least six months in arrears is entitled to reimbursement for expenses, up to \$500, incurred in collecting the past due ground rent and in complying with the required notice provision for ejectment actions, including: (1) title abstract and examination fees; (2) judgment report fees; (3) photocopying and postage fees; and (4) attorney's fees.

Upon filing a complaint for ejectment, the holder is entitled to reasonable preparation and filing expenses incurred, including: (1) filing fees and court costs; (2) expenses incurred for service of process; (3) additional fees for a title abstract and examination, up to \$300; (4) attorney's fees, up to \$700; and (5) taxes, including interest and penalties paid by the plaintiff or holder.

In order to be eligible for reimbursement, the holder must give notice to the tenant of the amount of the past due ground rent. The notice must be sent by first class mail to the tenant's last known address and must state that the holder will take action to repossess the property if the past due ground rent is not paid within 30 days.

Background: Chapter 80 of 2003 altered the ejectment process for property subject to a ground lease. Chapter 80 established the 45-day waiting period, authorized the holder of the ground rent to be reimbursed for expenses incurred in collecting past due rent and in preparing and filing an ejectment case, and established the notice requirements that must be met to be eligible for reimbursement.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

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