

---

By: **Delegates King, Barkley, Bozman, Cardin, G. Clagett, Dumais, Feldman,  
Levy, Murray, and Patterson**

Introduced and read first time: February 9, 2006

Assigned to: Environmental Matters

---

A BILL ENTITLED

1 AN ACT concerning

2 **Landlord and Tenant - Commercial Retail Property - Common Area**  
3 **Maintenance**

4 FOR the purpose of limiting the amount of money a certain landlord may charge a  
5 certain tenant for common area maintenance to a certain allocation of the actual  
6 expenses incurred by the landlord; requiring a certain landlord to make  
7 available, in certain circumstances, documentation for common area  
8 maintenance expenses to a tenant; requiring a tenant to give notice, within a  
9 certain time period, of a request to inspect certain documents; requiring certain  
10 approval of tenants for total expenses for certain common area maintenance  
11 that exceed a certain amount; establishing certain penalties for failure to comply  
12 with this Act, including the payment of reasonable attorney fees; defining  
13 certain terms; providing for the application of this Act; and generally relating to  
14 commercial retail property and common area maintenance.

15 BY adding to  
16 Article - Real Property  
17 Section 8-119  
18 Annotated Code of Maryland  
19 (2003 Replacement Volume and 2005 Supplement)

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

22 **Article - Real Property**

23 8-119.

24 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
25 INDICATED.

26 (2) "COMMON AREA MAINTENANCE" MEANS THE REPAIRS, UPKEEP,  
27 REPLACEMENTS, AND IMPROVEMENTS MADE TO A COMMERCIAL RETAIL PARCEL OR  
28 LOCATION.

1 (3) "COSTS" MEANS EXPENSES ASSOCIATED WITH COMMON AREA  
2 MAINTENANCE THAT A LANDLORD CHARGES TO THE TENANTS OF THAT PARCEL OR  
3 LOCATION BY AN ALLOCATED METHOD, SUCH AS ALLOCATING THE EXPENSES:

4 (I) PER TENANT OR NUMBER OF TENANTS;

5 (II) PROPORTIONATELY BY SQUARE FOOTAGE; OR

6 (III) PER TYPE OF UNIT OR SPACE.

7 (4) (I) "LANDLORD" MEANS AN OWNER OF COMMERCIAL RETAIL  
8 PROPERTY WHO OFFERS MORE THAN SIX UNITS OR SPACES FOR LEASE ON ONE  
9 PARCEL OR IN ONE LOCATION.

10 (II) "LANDLORD" INCLUDES:

11 1. A PERSON CONTROLLED OR OWNED BY A LANDLORD; OR

12 2. A PERSON ACTING ON BEHALF OF OR AFFILIATED WITH A  
13 LANDLORD.

14 (5) "UNIT" OR "SPACE" MEANS A SINGLE DESIGNATED AREA OR STORE.

15 (B) (1) A LANDLORD MAY NOT CHARGE A TENANT A GREATER AMOUNT FOR  
16 COMMON AREA MAINTENANCE COSTS THAN THE TENANT'S COSTS FOR THE ACTUAL  
17 EXPENSES INCURRED BY THE LANDLORD.

18 (2) A LANDLORD MAY NOT CHARGE TENANTS COSTS FOR COMMON AREA  
19 MAINTENANCE EXPENSES THAT TOTAL MORE THAN \$25,000 UNLESS THAT AMOUNT  
20 HAS BEEN APPROVED BY THE UNANIMOUS VOTE OF THE TENANTS.

21 (C) (1) IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, A  
22 LANDLORD SHALL MAKE AVAILABLE FOR INSPECTION AT THE PRINCIPAL OFFICE OF  
23 THE LANDLORD IN THIS STATE, OR AT THE LEASED LOCATION, ALL OF THE ORIGINAL  
24 DOCUMENTS, INCLUDING BILLS, INVOICES, RECEIPTS, CHECKS PAID, AND CREDITS  
25 OR REFUNDS RECEIVED FOR COMMON AREA MAINTENANCE.

26 (2) A TENANT SHALL GIVE THE LANDLORD NOT LESS THAN 15 DAYS  
27 NOTICE OF A REQUEST TO INSPECT THE DOCUMENTS IN ACCORDANCE WITH THIS  
28 SUBSECTION.

29 (D) A LANDLORD WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS LIABLE  
30 TO THE TENANT AFFECTED BY THE VIOLATION FOR:

31 (1) THE GREATER OF:

32 (I) THE TOTAL AMOUNT OF DAMAGES PROXIMATELY CAUSED BY  
33 THE VIOLATION; OR

34 (II) \$1,000 PER VIOLATION; AND

1           (2)     REASONABLE ATTORNEY FEES.

2     (E)     THIS SECTION DOES NOT PROHIBIT A LANDLORD FROM RECOVERING THE  
3 EXPENSES OF COMMON AREA MAINTENANCE DESCRIBED IN SUBSECTION (B)(1) OF  
4 THIS SECTION BY INCLUDING THE EXPENSES IN AN UNDIFFERENTIATED LEASE  
5 PAYMENT.

6     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
7 construed to apply only prospectively and may not be applied or interpreted to have  
8 any effect on or application to any lease entered into before the effective date of this  
9 Act.

10    SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take  
11 effect October 1, 2006.