

# HOUSE BILL 463

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CF SB 396

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By: **Delegate Rosenberg and the Speaker (By Request – Administration) and Delegates Anderson, Beidle, Branch, Bromwell, Carter, V. Clagett, Conaway, Doory, Dumais, Glenn, Hammen, Harrison, Haynes, Jones, Kach, Kirk, Krysiak, Lafferty, Lawton, Love, McHale, McIntosh, Oaks, Olszewski, Robinson, Schuler, Sophocleus, Stukes, and Tarrant**

Introduced and read first time: February 6, 2007

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Ground Rents – Remedy for Nonpayment of Ground Rent**

3 FOR the purpose of repealing provisions of law authorizing a landlord under a ground  
4 lease to bring an action for ejectment for nonpayment of ground rent; repealing  
5 provisions of law entitling the holder of a ground rent to reimbursement for  
6 certain expenses incurred in collecting past due ground rent and filing an action  
7 for ejectment; providing that the establishment of a lien is the sole remedy for  
8 nonpayment of a ground rent; requiring a certain person seeking to impose a  
9 lien to give a certain notice in a certain manner; authorizing a person to whom  
10 notice is given to file a certain complaint and request a hearing in a certain  
11 circuit court; establishing procedures for imposing and releasing a lien;  
12 authorizing the court to award costs and reasonable attorney's fees to the  
13 prevailing party in a certain action; specifying the form for a statement of lien;  
14 providing for the enforcement and foreclosure of a lien; making certain  
15 conforming changes; defining certain terms; and generally relating to remedies  
16 for nonpayment of ground rent.

17 BY repealing

18 Article – Real Property

19 Section 8–402.2 and 8–402.3

20 Annotated Code of Maryland

21 (2003 Replacement Volume and 2006 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to  
2 Article – Real Property  
3 Section 8–402.2  
4 Annotated Code of Maryland  
5 (2003 Replacement Volume and 2006 Supplement)

6 BY repealing and reenacting, with amendments,  
7 Article – Real Property  
8 Section 8–111.1 and 14–108.1  
9 Annotated Code of Maryland  
10 (2003 Replacement Volume and 2006 Supplement)

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

13 **Article – Real Property**

14 [8–402.2.

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

26 (b) (1) Before entry of a judgment the landlord shall give written notice of  
27 the pending entry of judgment to each mortgagee of the lease, or any part of the lease,  
28 who before entry of the judgment has recorded in the land records of each county  
29 where the property is located a timely request for notice of judgment. A request for  
30 notice of judgment shall:

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

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

1 (iii) State the name and address of the holder of the mortgage;  
2 and

3 (iv) Identify the ground lease by stating:

- 4 1. The name of the original lessor;
- 5 2. The date the ground lease was recorded; and
- 6 3. The office, docket or book, and page where the ground  
7 lease is recorded.

8 (2) The landlord shall mail the notice by certified mail return receipt  
9 requested to the mortgagee at the address stated in the recorded request for notice of  
10 judgment. If the notice is not given, judgment in favor of the landlord does not impair  
11 the lien of the mortgagee. Except as otherwise provided in subsection (b) of this  
12 section, the property is discharged from the lease and the rights of all persons  
13 claiming under the lease are foreclosed unless, within 6 calendar months after  
14 execution of the judgment for possession, the tenant or any other person claiming  
15 under the lease:

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

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

19 (c) This section does not bar the right of any mortgagee of the lease, or any  
20 part of the lease, who is not in possession at any time before expiration of 6 calendar  
21 months after execution of the judgment awarding the landlord possession, to pay all  
22 costs and damages sustained by the landlord and to perform all the covenants and  
23 agreements that are to be performed by the tenant.

24 (d) Except as otherwise provided by law, a landlord may not receive  
25 reimbursement for any additional costs or expenses related to collection of the back  
26 rent unless the notice requirements of this section and § 8-402.3 of this subtitle are  
27 met.]

28 [8-402.3.

29 (a) In this section, "ground rent" means a residential lease or sublease in  
30 effect on or after October 1, 2003, that has an initial term of 99 years renewable

1 forever and creates a leasehold estate subject to the payment of semiannual  
2 installments of an annual lease amount.

3 (b) (1) A holder of a ground rent that is at least 6 months in arrears is  
4 entitled to reimbursement for actual expenses not exceeding \$500 incurred in the  
5 collection of that past due ground rent and in complying with the notice requirements  
6 under § 8–402.2(a) of this subtitle, including:

7 (i) Title abstract and examination fees;

8 (ii) Judgment report fees;

9 (iii) Photocopying and postage fees; and

10 (iv) Attorney’s fees.

11 (2) Upon filing an action for ejectment, the plaintiff or holder of a  
12 ground rent is entitled to reimbursement for reasonable expenses incurred in the  
13 preparation and filing of the ejectment action, including:

14 (i) Filing fees and court costs;

15 (ii) Expenses incurred in the service of process or otherwise  
16 providing notice;

17 (iii) Title abstract and examination fees not included under  
18 paragraph (1) of this subsection, not exceeding \$300;

19 (iv) Reasonable attorney’s fees not exceeding \$700; and

20 (v) Taxes, including interest and penalties, that have been paid  
21 by the plaintiff or holder of a ground rent.

22 (c) Except as provided in subsection (b) of this section or in § 8–402.2(c) of  
23 this subtitle, the plaintiff or holder of a ground rent is not entitled to reimbursement  
24 for any other expenses incurred in the collection of a ground rent.

25 (d) (1) The holder of a ground rent may not be reimbursed for expenses  
26 under subsection (b) of this section unless the holder sends the tenant as identified in  
27 the records of the State Department of Assessments and Taxation written notice at  
28 least 30 days before taking any action in accordance with § 8–402.2(a) of this subtitle  
29 and § 14–108.1 of this article.

1           (2)    The notice shall be in 14 point, bold font, and contain the following:

2                   (i)    The amount of the past due ground rent;

3                   (ii)   A statement that unless the past due ground rent is paid  
4 within 30 days, further action will be taken in accordance with § 8–402.2(a) of this  
5 subtitle and § 14–108.1 of this article and the tenant will be liable for the expenses  
6 and fees incurred in connection with the collection of the past due ground rent as  
7 provided in this section.

8           (3)    The holder of the ground rent shall:

9                   (i)    Mail the notice by first class mail to the tenant’s last known  
10 address as shown in the records of the State Department of Assessments and  
11 Taxation; and

12                   (ii)   Obtain a certificate of mailing from the United States Postal  
13 Service.]

14   **8–402.2.**

15           (A)   (1)   **IN THIS SECTION THE FOLLOWING WORDS HAVE THE**  
16 **MEANINGS INDICATED.**

17                   (2)   **“GROUND LEASE” MEANS A RESIDENTIAL LEASE OR**  
18 **SUBLEASE IN EFFECT ON OR AFTER FEBRUARY 5, 2007, THAT HAS AN INITIAL**  
19 **TERM OF 99 YEARS RENEWABLE FOREVER AND IS SUBJECT TO THE PAYMENT OF**  
20 **AN ANNUAL GROUND RENT.**

21                   (3)   **“GROUND RENT” MEANS A RENT ISSUING OUT OF, OR**  
22 **COLLECTIBLE IN CONNECTION WITH, THE REVERSION IN FEE SIMPLE RESERVED**  
23 **IN A GROUND LEASE.**

24                   (4)   **“LANDLORD” MEANS THE HOLDER OF THE REVERSIONARY**  
25 **INTEREST UNDER A GROUND LEASE.**

26                   (5)   **“TENANT” MEANS THE HOLDER OF THE LEASEHOLD**  
27 **INTEREST UNDER A GROUND LEASE.**

28           (B)   **NOTWITHSTANDING ANY PROVISION OF A GROUND LEASE GIVING**  
29 **THE LANDLORD THE RIGHT TO REENTER, THE ESTABLISHMENT OF A LIEN**

1 UNDER THIS SECTION IS THE SOLE REMEDY FOR NONPAYMENT OF A GROUND  
2 RENT.

3 (C) SUBJECT TO §§ 8-111 AND 8-111.1 OF THIS ARTICLE, IF A GROUND  
4 RENT IS AT LEAST 6 MONTHS IN ARREARS, THE LANDLORD MAY OBTAIN A LIEN  
5 UNDER THIS SECTION IN THE AMOUNT OF THE GROUND RENT DUE.

6 (D) (1) A LANDLORD SEEKING TO CREATE A LIEN UNDER THIS  
7 SECTION SHALL GIVE WRITTEN NOTICE TO THE TENANT AGAINST WHOSE  
8 PROPERTY THE LIEN IS INTENDED TO BE IMPOSED.

9 (2) NOTICE UNDER THIS SUBSECTION SHALL BE SERVED BY:

10 (I) 1. CERTIFIED MAIL, RETURN RECEIPT REQUESTED,  
11 ADDRESSED TO THE TENANT OR THE TENANT'S SUCCESSOR IN INTEREST AT THE  
12 INDIVIDUAL'S CURRENT ADDRESS; OR

13 2. PERSONAL DELIVERY TO THE TENANT OR THE  
14 TENANT'S SUCCESSOR IN INTEREST; AND

15 (II) POSTING NOTICE IN A CONSPICUOUS MANNER ON THE  
16 PROPERTY.

17 (E) A NOTICE UNDER SUBSECTION (D) OF THIS SECTION SHALL  
18 INCLUDE:

19 (1) THE NAME AND ADDRESS OF THE PARTY SEEKING TO CREATE  
20 THE LIEN;

21 (2) A STATEMENT OF INTENT TO CREATE A LIEN;

22 (3) AN IDENTIFICATION OF THE GROUND LEASE;

23 (4) THE AMOUNT OF GROUND RENT ALLEGED TO BE DUE;

24 (5) A DESCRIPTION OF THE PROPERTY AGAINST WHICH THE LIEN  
25 IS INTENDED TO BE IMPOSED SUFFICIENT TO IDENTIFY THE PROPERTY;

1           **(6) A STATEMENT THAT THE PARTY AGAINST WHOSE PROPERTY**  
2 **THE LIEN IS INTENDED TO BE IMPOSED HAS THE RIGHT TO OBJECT TO THE**  
3 **ESTABLISHMENT OF A LIEN BY FILING A COMPLAINT IN THE CIRCUIT COURT**  
4 **AND THE RIGHT TO A HEARING;**

5           **(7) AN EXPLANATION OF THE PROCEDURE TO FILE A COMPLAINT**  
6 **AND REQUEST A HEARING; AND**

7           **(8) A STATEMENT THAT, UNLESS THE PAST DUE GROUND RENT IS**  
8 **PAID OR A COMPLAINT IS FILED UNDER SUBSECTION (F) OF THIS SECTION**  
9 **WITHIN 45 DAYS AFTER THE NOTICE IS SERVED, A LIEN WILL BE IMPOSED ON**  
10 **THE PROPERTY.**

11           **(F) (1) A PARTY TO WHOM NOTICE IS GIVEN UNDER SUBSECTION (D)**  
12 **OF THIS SECTION MAY, WITHIN 45 DAYS AFTER THE NOTICE IS SERVED ON THE**  
13 **PARTY, FILE A COMPLAINT IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH**  
14 **THE PROPERTY IS LOCATED TO DETERMINE WHETHER A LIEN SHOULD BE**  
15 **ESTABLISHED.**

16           **(2) A COMPLAINT FILED UNDER THIS SUBSECTION SHALL**  
17 **INCLUDE:**

18                   **(I) THE NAME OF THE COMPLAINANT AND THE NAME OF**  
19 **THE PARTY SEEKING TO ESTABLISH THE LIEN;**

20                   **(II) A COPY OF THE NOTICE SERVED UNDER SUBSECTION**  
21 **(D) OF THIS SECTION; AND**

22                   **(III) AN AFFIDAVIT CONTAINING A STATEMENT OF FACTS**  
23 **THAT WOULD PRECLUDE ESTABLISHMENT OF THE LIEN FOR THE AMOUNT OF**  
24 **GROUND RENT ALLEGED IN THE NOTICE.**

25           **(3) A PARTY FILING A COMPLAINT UNDER THIS SUBSECTION MAY**  
26 **REQUEST A HEARING AT WHICH ANY PARTY MAY APPEAR TO PRESENT**  
27 **EVIDENCE.**

28           **(G) IF A COMPLAINT IS FILED, THE PARTY SEEKING TO ESTABLISH THE**  
29 **LIEN HAS THE BURDEN OF PROOF.**

1           **(H) THE CLERK OF THE CIRCUIT COURT SHALL DOCKET THE**  
2 **PROCEEDINGS UNDER THIS SECTION, AND ALL PROCESS SHALL ISSUE OUT OF**  
3 **AND ALL PLEADINGS SHALL BE FILED IN A SINGLE ACTION.**

4           **(I) BEFORE ANY HEARING HELD UNDER SUBSECTION (F) OF THIS**  
5 **SECTION, THE PARTY SEEKING TO ESTABLISH A LIEN MAY SUPPLEMENT, BY**  
6 **MEANS OF AN AFFIDAVIT, ANY INFORMATION CONTAINED IN THE NOTICE GIVEN**  
7 **UNDER SUBSECTION (D) OF THIS SECTION.**

8           **(J) IF A COMPLAINT IS FILED UNDER SUBSECTION (F) OF THIS SECTION,**  
9 **THE COURT SHALL REVIEW ANY PLEADINGS FILED, INCLUDING ANY**  
10 **SUPPLEMENTARY AFFIDAVIT FILED UNDER SUBSECTION (I) OF THIS SECTION,**  
11 **AND SHALL CONDUCT A HEARING IF REQUESTED UNDER SUBSECTION (F)(3) OF**  
12 **THIS SECTION.**

13           **(K) (1) IF THE COURT DETERMINES THAT A LIEN SHOULD BE**  
14 **ESTABLISHED, IT SHALL ENTER AN ORDER FINDING THE AMOUNT OF GROUND**  
15 **RENT DUE AND IMPOSING A LIEN.**

16                   **(2) IF THE COURT DETERMINES THAT A LIEN SHOULD NOT BE**  
17 **ESTABLISHED, IT SHALL ENTER AN ORDER DENYING A LIEN.**

18                   **(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,**  
19 **THE COURT MAY AWARD COSTS AND REASONABLE ATTORNEY'S FEES TO THE**  
20 **PREVAILING PARTY IN AN ACTION UNDER THIS SECTION.**

21                           **(II) IF THE LANDLORD IS THE PREVAILING PARTY, AN**  
22 **AWARD OF COSTS AND REASONABLE ATTORNEY'S FEES MAY NOT EXCEED \$500.**

23                   **(4) (I) THE AMOUNT OF THE LIEN SHALL BE FOR THE GROUND**  
24 **RENT FOUND BY THE COURT TO BE DUE AND ANY COSTS AND ATTORNEY'S FEES**  
25 **AWARDED BY THE COURT.**

26                           **(II) THE AMOUNT OF THE LIEN SHALL INCREASE ANNUALLY**  
27 **BY THE AMOUNT OF GROUND RENT DUE PLUS SIMPLE INTEREST AT THE RATE**  
28 **PRESCRIBED BY LAW ACCRUING FROM THE DATE OF ENTRY OF THE JUDGMENT.**



1           **(5) AN ORDER IMPOSING A LIEN SHALL STATE THAT THE OWNER**  
2 **OF THE PROPERTY AGAINST WHICH THE LIEN IS IMPOSED MAY FILE A BOND IN A**  
3 **SPECIFIED AMOUNT TO HAVE THE LIEN AGAINST THE PROPERTY RELEASED.**

4           **(L) (1) IF THE COURT ORDERS A LIEN TO BE IMPOSED UNDER**  
5 **SUBSECTION (K) OF THIS SECTION, OR IF THE OWNER OF THE PROPERTY**  
6 **AGAINST WHICH A LIEN IS INTENDED TO BE IMPOSED FAILS TO PAY THE PAST**  
7 **DUE GROUND RENT OR FILE A COMPLAINT UNDER SUBSECTION (F) OF THIS**  
8 **SECTION, THE PARTY SEEKING TO CREATE THE LIEN MAY FILE A STATEMENT OF**  
9 **LIEN IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS**  
10 **LOCATED.**

11           **(2) THE PARTY SEEKING TO CREATE THE LIEN MAY FILE THE**  
12 **LIEN STATEMENT IN THE COUNTY LAND RECORDS:**

13                   **(I) IF A COMPLAINT WAS FILED UNDER SUBSECTION (F) OF**  
14 **THIS SECTION, AFTER THE DATE OF ENTRY OF A FINAL NONAPPEALABLE**  
15 **JUDGMENT IMPOSING A LIEN, UNLESS BEFORE THE JUDGMENT BECOMES**  
16 **FINAL, THE OWNER OF THE PROPERTY AGAINST WHICH THE LIEN IS IMPOSED**  
17 **PAYS THE AMOUNT OF THE GROUND RENT FOUND BY THE COURT TO BE DUE**  
18 **AND ANY COSTS AND ATTORNEY'S FEES AWARDED BY THE COURT; OR**

19                   **(II) IF A COMPLAINT WAS NOT FILED UNDER SUBSECTION**  
20 **(F) OF THIS SECTION OR THE PAST DUE GROUND RENT WAS NOT PAID, 45 DAYS**  
21 **AFTER THE OWNER WAS SERVED UNDER SUBSECTION (D)(2)(I) OF THIS**  
22 **SECTION.**

23           **(3) UNLESS THE PARTY SEEKING TO CREATE THE LIEN AND THE**  
24 **OWNER OF THE PROPERTY AGREE OTHERWISE, IF THE PARTY SEEKING TO**  
25 **CREATE THE LIEN FAILS TO FILE THE LIEN STATEMENT WITHIN THE**  
26 **APPLICABLE TIME PERIOD DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION,**  
27 **THE PARTY SEEKING TO CREATE THE LIEN:**

28                   **(I) MAY NOT FILE THE LIEN STATEMENT IN THE COUNTY**  
29 **LAND RECORDS; AND**

30                   **(II) MAY FILE FOR A NEW LIEN BY COMPLYING WITH THE**  
31 **REQUIREMENTS OF THIS SECTION.**

1           **(4) A LIEN IMPOSED UNDER THIS SUBTITLE HAS PRIORITY FROM**  
2 **THE DATE THE STATEMENT OF LIEN IS FILED.**

3           **(M) A STATEMENT OF LIEN IS SUFFICIENT FOR PURPOSES OF THIS**  
4 **SECTION IF IT IS IN SUBSTANTIALLY THE FOLLOWING FORM:**

5                                   **“STATEMENT OF LIEN**

6           **THIS IS TO CERTIFY THAT THE PROPERTY DESCRIBED AS \_\_\_\_\_ IS**  
7 **SUBJECT TO A LIEN UNDER § 8-402.2 OF THE REAL PROPERTY ARTICLE,**  
8 **ANNOTATED CODE OF MARYLAND, IN THE AMOUNT OF \$\_\_\_\_\_. THE**  
9 **PROPERTY IS OWNED BY \_\_\_\_\_.**

10           **I HEREBY AFFIRM UNDER THE PENALTY OF PERJURY THAT NOTICE WAS**  
11 **GIVEN UNDER § 8-402.2(D) OF THE REAL PROPERTY ARTICLE ON \_\_\_\_\_,**  
12 **AND THAT THE INFORMATION CONTAINED IN THE FOREGOING STATEMENT OF**  
13 **LIEN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION,**  
14 **AND BELIEF.**

15           \_\_\_\_\_

16           **(NAME OF PARTY CLAIMING LIEN)”.**

17           **(N) IF A BOND IS FILED IN THE AMOUNT SPECIFIED BY THE COURT**  
18 **UNDER SUBSECTION (K)(5) OF THIS SECTION, THE CLERK OF THE CIRCUIT**  
19 **COURT SHALL ENTER A NOTATION IN THE LAND RECORDS RELEASING THE LIEN.**

20           **(O) (1) A LIEN UNDER THIS SECTION MAY BE ENFORCED AND**  
21 **FORECLOSED BY THE PARTY WHO OBTAINED THE LIEN IN THE SAME MANNER**  
22 **AND SUBJECT TO THE SAME REQUIREMENTS, AS THE FORECLOSURE OF A**  
23 **MORTGAGE OR DEED OF TRUST CONTAINING NEITHER A POWER OF SALE NOR**  
24 **AN ASSENT TO DECREE.**

25           **(2) A FORECLOSURE SALE MAY NOT BE MADE IF, AT ANY TIME**  
26 **BEFORE THE SALE, THE LIEN IS SATISFIED AND THE COSTS OF GIVING NOTICE**  
27 **OF THE SALE ARE PAID.**

28           **(3) IF THE PROPERTY SUBJECT TO THE LIEN IS SOLD AT A**  
29 **FORECLOSURE SALE, THE LANDLORD SHALL BE PAID OUT OF THE PROCEEDS OF**

1 THE SALE THE GREATER OF THE AMOUNT OF THE LIEN OR THE REDEMPTION  
 2 AMOUNT CALCULATED UNDER § 8-110(B)(2)(I) OF THIS TITLE AND THE  
 3 PURCHASER SHALL TAKE TITLE TO THE PROPERTY FREE AND CLEAR OF THE  
 4 GROUND LEASE.

5 (P) IF THE LIENHOLDER CANNOT BE LOCATED, THE LIEN MAY BE  
 6 SATISFIED AND THE GROUND RENT REDEEMED IN ACCORDANCE WITH §  
 7 8-110(G) OF THIS TITLE BY PAYING THE GREATER OF THE AMOUNT OF THE LIEN  
 8 OR THE AMOUNT SET FORTH IN § 8-110(G)(4) OF THIS TITLE.

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

### 11 Article - Real Property

12 8-111.1.

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

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

21 (c) In addition to rent payable under subsection (b) of this section, a landlord  
 22 may not receive reimbursement for any additional costs or expenses related to  
 23 collection of the back rent [unless the notice requirements of §§ 8-402.2 and 8-402.3 of  
 24 this title are met].

25 14-108.1.

26 (a) This section does not apply to:

27 (1) A grantee action under § 14-109 of this subtitle; [or]

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

1                   **(3) AN ACTION FOR NONPAYMENT OF GROUND RENT.**

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

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

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

12           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 July 1, 2007.