

HOUSE BILL 580

N1

71r0866
CF SB 622

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

Introduced and read first time: February 8, 2007

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 16, 2007

CHAPTER _____

1 AN ACT concerning

2 **Ground Rents – ~~Limitation of Actions~~ – Registry of Properties Subject to**
3 **Ground Leases**

4 FOR the purpose of authorizing the recordation of a certain ground lease
5 extinguishment certificate under certain circumstances; ~~providing that a ground~~
6 ~~rent is extinguished if there is no demand or payment for more than a certain~~
7 ~~number of years of any specific ground rent under certain circumstances;~~
8 requiring the State Department of Assessments and Taxation to maintain ~~and~~
9 ~~update regularly on-line registries of landlords and~~ an on-line registry of
10 properties that are subject to ground leases; requiring a landlord ground lease
11 holder to apply to register a ground lease with the Department by submitting a
12 certain registration ~~application~~ form and a certain fee; requiring the
13 Department to register a ground lease under certain circumstances; requiring a
14 ~~landlord~~ landlord ground lease holder to notify the Department of certain information
15 after a ground lease is registered; requiring a ~~landlord~~ landlord ground lease holder ~~to~~
16 ~~apply~~ to register a ground lease by a certain date; providing for the
17 extinguishment of a ground lease if the ground lease is not registered under

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (ii) Any boundary survey plat signed and sealed by a
2 professional land surveyor or property line surveyor licensed in the State;

3 (iii) Any assumption agreement by which a person agrees to
4 assume the liability of a debt or other obligation secured by a mortgage or deed of
5 trust;

6 (iv) Any release of personal liability of a borrower or guarantor
7 under a mortgage or under a note or other obligation secured by a deed of trust; or

8 (v) A ground rent redemption certificate or a ground rent
9 extinguishment certificate issued under § 8-110 of this article **OR A GROUND LEASE**
10 **EXTINGUISHMENT CERTIFICATE ISSUED UNDER § ~~8-707~~ 8-708 OF THIS**
11 **ARTICLE.**

12 (3) The recording of any instrument constitutes constructive notice
13 from the date of recording.

14 ~~§ 107.~~

15 ~~(A) If there is no demand or payment for more than 20 consecutive years of~~
16 ~~any specific rent reserved out of a particular property or any part of a particular~~
17 ~~property under any form of lease, the rent conclusively is presumed to be extinguished~~
18 ~~and the landlord may not set up any claim for the rent or to the reversion in the~~
19 ~~property out of which it issued. The landlord also may not institute any suit, action, or~~
20 ~~proceeding to recover the rent or the property. However, if the landlord is under any~~
21 ~~legal disability when the period of 20 years of nondemand or nonpayment expires, the~~
22 ~~landlord has two years after the removal of the disability within which to assert the~~
23 ~~landlord's rights.~~

24 ~~(B) (1) (i) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE~~
25 ~~THE MEANINGS INDICATED.~~

26 ~~(ii) "GROUND LEASE" MEANS A RESIDENTIAL LEASE OR~~
27 ~~SUBLEASE IN EFFECT ON OR AFTER OCTOBER 1, 2007, THAT HAS AN INITIAL~~
28 ~~TERM OF 99 YEARS RENEWABLE FOREVER AND IS SUBJECT TO THE PAYMENT OF~~
29 ~~AN ANNUAL GROUND RENT.~~

30 ~~(iii) "GROUND RENT" MEANS A RENT ISSUING OUT OF, OR~~
31 ~~COLLECTIBLE IN CONNECTION WITH, THE REVERSION IN FEE SIMPLE RESERVED~~
32 ~~IN A GROUND LEASE.~~

1 ~~(IV) "LANDLORD" MEANS THE HOLDER OF THE~~
2 ~~REVERSIONARY INTEREST UNDER A GROUND LEASE.~~

3 ~~(V) "TENANT" MEANS THE HOLDER OF THE LEASEHOLD~~
4 ~~INTEREST UNDER A GROUND LEASE.~~

5 ~~(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS~~
6 ~~SUBSECTION, IF THERE IS NO DEMAND OR PAYMENT FOR MORE THAN 3~~
7 ~~CONSECUTIVE YEARS OF ANY SPECIFIC GROUND RENT RESERVED OUT OF A~~
8 ~~PARTICULAR PROPERTY UNDER A GROUND LEASE;~~

9 ~~(I) THE GROUND RENT IS EXTINGUISHED AND THE~~
10 ~~LANDLORD MAY NOT SET UP ANY CLAIM FOR THE GROUND RENT OR TO THE~~
11 ~~REVERSION IN THE PROPERTY OUT OF WHICH THE GROUND RENT ISSUED; AND~~

12 ~~(H) THE LANDLORD MAY NOT INSTITUTE ANY SUIT, ACTION,~~
13 ~~OR PROCEEDING AGAINST THE TENANT TO RECOVER THE GROUND RENT OR~~
14 ~~THE PROPERTY.~~

15 ~~(3) IF THE LANDLORD IS UNDER ANY LEGAL DISABILITY WHEN~~
16 ~~THE PERIOD OF 3 YEARS OF NONDEMAND AND NONPAYMENT EXPIRES, THE~~
17 ~~LANDLORD HAS 2 YEARS AFTER THE REMOVAL OF THE DISABILITY WITHIN~~
18 ~~WHICH TO ASSERT THE LANDLORD'S RIGHTS.~~

19 ~~(4) NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION, A~~
20 ~~GROUND LEASE MAY NOT BE EXTINGUISHED UNDER THIS SUBSECTION BEFORE~~
21 ~~APRIL 1, 2008.~~

22 SUBTITLE 7. REGISTRY OF GROUND LEASES.

23 8-701.

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

26 (B) "DEPARTMENT" MEANS THE STATE DEPARTMENT OF
27 ASSESSMENTS AND TAXATION.

1 ~~(C) "GROUND LEASE" MEANS A RESIDENTIAL LEASE OR SUBLEASE IN~~
2 ~~EFFECT ON OR AFTER OCTOBER 1, 2007, THAT HAS AN INITIAL TERM OF 99~~
3 ~~YEARS RENEWABLE FOREVER AND IS SUBJECT TO THE PAYMENT OF AN ANNUAL~~
4 ~~GROUND RENT.~~

5 ~~(D) "GROUND RENT" MEANS A RENT ISSUING OUT OF, OR COLLECTIBLE~~
6 ~~IN CONNECTION WITH, THE REVERSION IN FEE SIMPLE RESERVED IN A GROUND~~
7 ~~LEASE.~~

8 ~~(E) "LANDLORD" MEANS THE HOLDER OF THE REVERSIONARY~~
9 ~~INTEREST UNDER A GROUND LEASE.~~

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

12 (C) "CURRENT GROUND RENT DEED OF RECORD" MEANS THE
13 DOCUMENT THAT VESTS TITLE TO THE REVERSIONARY INTEREST IN THE
14 CURRENT GROUND LEASE HOLDER.

15 (D) "GROUND LEASE" MEANS A RESIDENTIAL LEASE OR SUBLEASE FOR
16 A TERM OF YEARS RENEWABLE FOREVER SUBJECT TO THE PAYMENT OF A
17 PERIODIC GROUND RENT.

18 (E) (1) "GROUND LEASE HOLDER" MEANS THE HOLDER OF THE
19 REVERSIONARY INTEREST UNDER A GROUND LEASE.

20 (2) "GROUND LEASE HOLDER" INCLUDES:

21 (I) AN AGENT OF THE GROUND LEASE HOLDER; OR

22 (II) A COMPANY CONTRACTED BY THE GROUND LEASE
23 HOLDER TO MANAGE GROUND LEASES.

24 (F) "GROUND RENT" MEANS A RENT ISSUING OUT OF, OR COLLECTIBLE
25 IN CONNECTION WITH, THE REVERSIONARY INTEREST UNDER A GROUND LEASE.

26 (G) "LEASEHOLD INTEREST" MEANS THE TENANCY IN REAL PROPERTY
27 CREATED UNDER A GROUND LEASE.

1 **(H) "LEASEHOLD TENANT" MEANS THE HOLDER OF THE LEASEHOLD**
2 **INTEREST UNDER A GROUND LEASE.**

3 **8-702.**

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

7 **(B) THIS SUBTITLE DOES NOT APPLY TO PROPERTY:**

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

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

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

17 **8-703.**

18 **(A) THE DEPARTMENT SHALL MAINTAIN ~~AND UPDATE REGULARLY~~ AN**
19 **ON-LINE ~~REGISTRIES OF LANDLORDS AND~~ REGISTRY OF PROPERTIES THAT ARE**
20 **SUBJECT TO GROUND LEASES.**

21 **(B) THE DEPARTMENT IS NOT RESPONSIBLE FOR THE COMPLETENESS**
22 **OR ACCURACY OF THE CONTENTS OF THE ON-LINE REGISTRY.**

23 ~~**8-703.**~~ **8-704.**

24 **(A) A ~~LANDLORD~~ GROUND LEASE HOLDER SHALL ~~APPLY TO~~ REGISTER A**
25 **GROUND LEASE WITH THE DEPARTMENT BY SUBMITTING:**

26 **(1) A REGISTRATION ~~APPLICATION ON A~~ FORM THAT THE**
27 **DEPARTMENT REQUIRES; AND**

1 (2) ~~A \$20~~ THE REGISTRATION APPLICATION FEE FOR EACH
2 GROUND LEASE AS PROVIDED UNDER SUBSECTION (C) OF THIS SECTION.

3 (B) THE REGISTRATION APPLICATION FORM SHALL INCLUDE:

4 (1) THE PREMISE ADDRESS AND TAX IDENTIFICATION NUMBER
5 OF THE PROPERTY FOR WHICH THE GROUND LEASE WAS CREATED;

6 (2) THE NAME AND ADDRESS OF THE LANDLORD GROUND LEASE
7 HOLDER;

8 (3) THE NAME AND ADDRESS OF THE LEASEHOLD TENANT;

9 (4) THE NAME AND ADDRESS OF THE PERSON TO WHOM THE
10 GROUND RENT PAYMENT IS SENT;

11 (5) THE AMOUNT AND DUE PAYMENT DATES OF THE PAYMENTS
12 FOR THE GROUND RENT INSTALLMENTS;

13 (6) A TO THE BEST OF THE GROUND LEASE HOLDER'S
14 KNOWLEDGE, A STATEMENT OF THE RANGE OF YEARS IN WHICH THE GROUND
15 LEASE WAS CREATED; AND

16 ~~(7) A COPY OF THE LANDLORD'S DEED;~~

17 ~~(8) (7) THE LIBER AND FOLIO INFORMATION FOR THE LAND~~
18 ~~RECORDS OF THE COUNTY IN WHICH THE GROUND LEASE WAS RECORDED; AND~~
19 CURRENT GROUND RENT DEED OF RECORD.

20 ~~(9) A STATEMENT OF ANY NOTIFICATION SENT TO THE TENANT~~
21 ~~OF ANY PAST DUE GROUND RENT OR A FILING FOR AN EJECTMENT ACTION.~~

22 (C) THE REGISTRATION FEE FOR A GROUND LEASE PER GROUND LEASE
23 HOLDER IS:

24 (1) \$10 FOR THE FIRST GROUND LEASE; AND

25 (2) FOR EACH ADDITIONAL GROUND LEASE:

26 (1) \$3 BEFORE OCTOBER 1, 2008;

1 (II) \$4 ON OR AFTER OCTOBER 1, 2008 AND BEFORE
 2 OCTOBER 1, 2009; AND

3 (III) \$5 ON OR AFTER OCTOBER 1, 2009.

4 ~~§ 704. 8-705.~~

5 (A) THE DEPARTMENT SHALL REGISTER A GROUND LEASE ~~IF~~ WHEN
 6 THE DEPARTMENT RECEIVES:

7 (1) ~~IS SATISFIED THAT A~~ A REGISTRATION APPLICATION IS
 8 COMPLETE FORM; AND

9 (2) ~~RECEIVES THE \$20 REGISTRATION APPLICATION~~ THE
 10 APPROPRIATE REGISTRATION FEE FOR EACH GROUND LEASE.

11 (B) (1) IF FOR ANY REASON THE DEPARTMENT IS UNABLE TO
 12 REGISTER A GROUND LEASE FOR WHICH A REGISTRATION FORM AND
 13 APPROPRIATE FEE HAS BEEN SUBMITTED, THE DEPARTMENT SHALL NOTIFY
 14 THE GROUND LEASE HOLDER OF THAT GROUND LEASE, WITHIN 30 DAYS OF
 15 PROCESSING THE REGISTRATION FORM, OF ANY INFORMATION NEEDED BY THE
 16 DEPARTMENT SO AS TO COMPLETE THE REGISTRATION.

17 (2) THE GROUND LEASE HOLDER SHALL HAVE UP TO 30 DAYS TO
 18 SUPPLY THE NEEDED INFORMATION TO THE DEPARTMENT BEFORE ANY ACTION
 19 MAY BE TAKEN UNDER § 8-708 OF THIS SUBTITLE.

20 ~~§ 705. 8-706.~~

21 ~~(A)~~ AFTER A GROUND LEASE IS REGISTERED, THE ~~LANDLORD~~ GROUND
 22 LEASE HOLDER SHALL PROMPTLY NOTIFY THE DEPARTMENT OF:

23 (1) A CHANGE IN THE NAME OR ADDRESS OF THE ~~LANDLORD~~
 24 GROUND LEASE HOLDER, LEASEHOLD TENANT, OR PERSON TO WHOM THE
 25 GROUND RENT PAYMENT IS SENT;

26 ~~(2) A STATEMENT OF ANY NOTIFICATION SENT TO THE TENANT~~
 27 ~~OF ANY PAST DUE GROUND RENT OR A FILING FOR AN EJECTMENT ACTION;~~

1 ~~(3)~~ (2) A REDEMPTION OF THE GROUND LEASE; AND

2 ~~(4)~~ (3) ANY OTHER INFORMATION THE DEPARTMENT REQUIRES.

3 ~~(B) FOR EACH NOTIFICATION MADE UNDER THIS SECTION, THE~~
4 ~~LANDLORD SHALL PAY A \$5 FEE.~~

5 ~~8-706.~~ 8-707.

6 (A) ~~(1) FOR A GROUND LEASE CREATED BEFORE OCTOBER 1, 2007,~~
7 ~~THE LANDLORD SHALL APPLY TO REGISTER THE~~ EXCEPT AS PROVIDED IN
8 SUBSECTION (B) OF THIS SECTION, A GROUND LEASE HOLDER SHALL REGISTER
9 A GROUND LEASE UNDER THIS SUBTITLE BEFORE SEPTEMBER 30, 2010.

10 ~~(2) FOR A GROUND LEASE CREATED ON OR AFTER OCTOBER 1,~~
11 ~~2007, THE LANDLORD SHALL APPLY TO REGISTER THE GROUND LEASE UNDER~~
12 ~~THIS SUBTITLE WITHIN 6 MONTHS OF THE DATE OF THE EXECUTION OF THE~~
13 ~~GROUND LEASE.~~

14 (B) IF A ~~LANDLORD~~ GROUND LEASE HOLDER IS UNDER A LEGAL
15 DISABILITY AT THE EXPIRATION OF THE REGISTRATION PERIOD UNDER
16 SUBSECTION (A) OF THIS SECTION, THE ~~LANDLORD~~ GROUND LEASE HOLDER
17 HAS 2 YEARS AFTER THE REMOVAL OF THE DISABILITY TO APPLY TO REGISTER
18 THE GROUND LEASE.

19 ~~8-707.~~ 8-708.

20 (A) IF A ~~LANDLORD~~ GROUND LEASE HOLDER DOES NOT SATISFY THE
21 REQUIREMENTS OF § ~~8-706~~ 8-707 OF THIS SUBTITLE, THE REVERSIONARY
22 INTEREST OF THE ~~LANDLORD~~ GROUND LEASE HOLDER UNDER THE GROUND
23 LEASE IS EXTINGUISHED AND GROUND RENT IS NO LONGER PAYABLE TO THE
24 LANDLORD GROUND LEASE HOLDER.

25 (B) IF A GROUND LEASE IS EXTINGUISHED UNDER THIS SECTION, ON
26 APPLICATION OF A LEASEHOLD TENANT, THE DEPARTMENT SHALL ISSUE TO
27 THE LEASEHOLD TENANT A GROUND LEASE EXTINGUISHMENT CERTIFICATE.

28 (C) THE EXTINGUISHMENT OF THE GROUND LEASE IS EFFECTIVE TO
29 CONCLUSIVELY VEST A FEE SIMPLE TITLE IN THE LEASEHOLD TENANT, FREE
30 AND CLEAR OF ANY AND ALL RIGHT, TITLE, OR INTEREST OF THE ~~LANDLORD~~

1 GROUND LEASE HOLDER, ANY LIEN OF A CREDITOR OF THE ~~LANDLORD~~ GROUND
2 LEASE HOLDER, AND ANY PERSON CLAIMING BY, THROUGH, OR UNDER THE
3 ~~LANDLORD~~ GROUND LEASE HOLDER WHEN THE LEASEHOLD TENANT RECORDS
4 THE CERTIFICATE IN THE LAND RECORDS OF THE COUNTY IN WHICH THE
5 PROPERTY IS LOCATED.

6 (D) TO THE EXTENT THAT THE EXTINGUISHMENT OF A GROUND LEASE
7 UNDER THIS SECTION CREATES INCOME FOR THE LEASEHOLD TENANT, THAT
8 INCOME MAY NOT BE CONSIDERED IN THE CALCULATION OF INCOME FOR THE
9 PURPOSES OF DETERMINING ELIGIBILITY FOR ANY STATE OR LOCAL PROGRAM.

10 (E) IF THE LEGAL DISABILITY OF A GROUND LEASE HOLDER IS
11 REMOVED AFTER A GROUND LEASE IS EXTINGUISHED UNDER THIS SECTION:

12 (1) IF THE GROUND LEASE EXTINGUISHMENT CERTIFICATE HAS
13 BEEN RECORDED, THE GROUND LEASE HOLDER:

14 (I) IS ENTITLED TO RECEIVE FROM THE FORMER
15 LEASEHOLD TENANT THE REDEMPTION VALUE OF THE GROUND LEASE; AND

16 (II) HAS NO CLAIM ON THE PROPERTY THAT HAD BEEN
17 SUBJECT TO THE GROUND LEASE; AND

18 (2) IF THE GROUND LEASE EXTINGUISHMENT CERTIFICATE HAS
19 NOT BEEN RECORDED, THE GROUND LEASE HOLDER:

20 (I) MAY REINSTATE THE GROUND LEASE BY REGISTERING
21 THE GROUND LEASE WITH THE DEPARTMENT WITHIN 2 YEARS AFTER THE
22 REMOVAL OF THE LEGAL DISABILITY; AND

23 (II) IS NOT ENTITLED TO GROUND RENT FOR THE PERIOD
24 OF THE LEGAL DISABILITY.

25 (F) IF A GROUND LEASE IS EXTINGUISHED UNDER THIS SECTION AND A
26 GROUND LEASE EXTINGUISHMENT CERTIFICATE HAS NOT BEEN RECORDED, A
27 BUYER OF THE PROPERTY FOR WHICH THE GROUND LEASE HAS BEEN
28 EXTINGUISHED:

1 **(1) MAY APPLY TO THE DEPARTMENT FOR A GROUND LEASE**
2 **EXTINGUISHMENT CERTIFICATE AND FILE THE CERTIFICATE IN THE LAND**
3 **RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED; AND**

4 **(2) MAY NOT BE REQUIRED TO PAY ANY SECURITY OR ANY**
5 **AMOUNT INTO AN ESCROW ACCOUNT FOR THE EXTINGUISHED GROUND LEASE.**

6 ~~8-708.~~ **8-709.**

7 **THE DEPARTMENT SHALL WORK WITH THE STATE ARCHIVES TO**
8 **COORDINATE THE RECORDATION, INDEXING, AND LINKING OF GROUND LEASES**
9 **REGISTERED UNDER THIS SUBTITLE.**

10 **8-710.**

11 **THE DEPARTMENT SHALL CREDIT ALL FEES COLLECTED UNDER THIS**
12 **SUBTITLE TO THE FUND ESTABLISHED UNDER § 1-203.3 OF THE**
13 **CORPORATIONS AND ASSOCIATIONS ARTICLE. FEES RECEIVED SHALL BE HELD**
14 **IN A GROUND LEASE REGISTRY ACCOUNT IN THAT FUND.**

15 ~~8-709.~~ **8-711.**

16 **THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS**
17 **SUBTITLE.**

18 **SECTION 2. AND BE IT FURTHER ENACTED, That, through September 30,**
19 **2010, the State Department of Assessments and Taxation shall publish notice of the**
20 **registration requirements under this Act in at least semiannual advertisements of at**
21 **least a quarter-page size in a newspaper of general circulation in Baltimore City and**
22 **each county in which ground rents are located.**

23 **SECTION 3. AND BE IT FURTHER ENACTED, That the State Department of**
24 **Assessments and Taxation shall report to the General Assembly, in accordance with §**
25 **2-1246 of the State Government Article, on or before December 31, 2007, and on or**
26 **before December 31, 2008, on the implementation of this Act, including**
27 **recommendations on the provision of notification to ground lease holders about the**
28 **registration requirements established under this Act.**

29 **SECTION 4. AND BE IT FURTHER ENACTED, That the Comptroller of the**
30 **State shall report to the General Assembly, in accordance with § 2-1246 of the State**
31 **Government Article, on or before December 31, 2007, on recommendations regarding**

1 the provision of notification by the Comptroller to ground lease holders about the
2 registration requirements with the State Department of Assessments and Taxation
3 established under this Act, including providing notification in the yearly State income
4 tax instruction booklet.

5 SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take
6 effect October 1, 2007.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.