

HOUSE BILL 1110

N1

71r2533

By: **Delegates Sossi, Aumann, Boteler, Eckardt, Elmore, Frank, Jennings,
Miller, Shewell, Smigiel, Taylor, Walkup, and Weir**

Introduced and read first time: February 15, 2007

Assigned to: Rules and Executive Nominations

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
6 actual 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; establishing
10 certain penalties for failure to comply with this Act, including the payment of
11 reasonable attorney fees; defining certain terms; providing for the application of
12 this Act; and generally relating to commercial retail property and common area
13 maintenance.

14 BY adding to

15 Article – Real Property

16 Section 8–119

17 Annotated Code of Maryland

18 (2003 Replacement Volume and 2006 Supplement)

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

21 **Article – Real Property**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **8-119.**

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
3 MEANINGS INDICATED.

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

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

11 (I) PER TENANT OR NUMBER OF TENANTS;

12 (II) PROPORTIONATELY BY SQUARE FOOTAGE; OR

13 (III) PER TYPE OF UNIT OR SPACE.

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

17 (II) "LANDLORD" INCLUDES:

18 1. A PERSON CONTROLLED OR OWNED BY A
19 LANDLORD; OR

20 2. A PERSON ACTING ON BEHALF OF OR AFFILIATED
21 WITH A LANDLORD.

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

24 (B) A LANDLORD MAY NOT CHARGE A TENANT A GREATER AMOUNT FOR
25 COMMON AREA MAINTENANCE COSTS THAN THE TENANT'S COSTS FOR THE
26 ACTUAL EXPENSES INCURRED BY THE LANDLORD.

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

7 **(2) A TENANT SHALL GIVE THE LANDLORD NOT LESS THAN 15**
8 **DAYS NOTICE OF A REQUEST TO INSPECT THE DOCUMENTS IN ACCORDANCE**
9 **WITH THIS SUBSECTION.**

10 **(D) A LANDLORD WHO VIOLATES SUBSECTION (B) OR (C) OF THIS**
11 **SECTION IS LIABLE TO THE TENANT AFFECTED BY THE VIOLATION FOR:**

12 **(1) THE GREATER OF:**

13 **(I) THE TOTAL AMOUNT OF DAMAGES PROXIMATELY**
14 **CAUSED BY THE VIOLATION; OR**

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

16 **(2) REASONABLE ATTORNEY FEES.**

17 **(E) THIS SECTION DOES NOT PROHIBIT A LANDLORD FROM**
18 **RECOVERING THE EXPENSES OF COMMON AREA MAINTENANCE DESCRIBED IN**
19 **SUBSECTION (B) OF THIS SECTION BY INCLUDING THE EXPENSES IN AN**
20 **UNDIFFERENTIATED LEASE PAYMENT.**

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

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2007.