

CHAPTER 290

(House Bill 580)

AN ACT concerning

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

FOR the purpose of authorizing the recordation of a certain ground lease extinguishment certificate under certain circumstances; ~~providing that a ground rent is extinguished if there is no demand or payment for more than a certain number of years of any specific ground rent under certain circumstances;~~ requiring the State Department of Assessments and Taxation to maintain ~~and update regularly on-line registries of landlords and~~ an on-line registry of properties that are subject to ground leases; requiring a ~~landlord~~ landlord ground lease holder ~~to apply~~ to register a ground lease with the Department by submitting a certain registration ~~application~~ form and a certain fee; requiring the Department to register a ground lease under certain circumstances; requiring a ~~landlord~~ landlord ground lease holder to notify the Department of certain information after a ground lease is registered; requiring a ~~landlord~~ landlord ground lease holder ~~to apply~~ to register a ground lease by a certain date; providing for the extinguishment of a ground lease if the ground lease is not registered under certain circumstances; providing for certain considerations and rights if a ground lease is extinguished under certain circumstances; requiring the Department to work with the State Archives for certain purposes regarding ground leases registered under this Act; requiring the Department to credit all fees collected under this Act to a certain fund; requiring the Department to adopt regulations to carry out the provisions of this Act; requiring the Department to publish a certain notice regarding the registration of ground leases; requiring the Department to report to the General Assembly on or before certain dates; requiring the Comptroller of the State to report to the General Assembly on or before a certain date; defining certain terms; providing for the application of certain provisions of this Act; and generally relating to a registry of properties subject to ground ~~rents~~ leases.

BY repealing and reenacting, with amendments,
 Article – Real Property
 Section 3-102(a) ~~and 8-107~~
 Annotated Code of Maryland
 (2003 Replacement Volume and 2006 Supplement)

BY adding to

Article – Real Property

Section 8–701 through ~~8–709~~ 8–711 to be under the new subtitle “Subtitle 7.
Registry of Ground Leases”

Annotated Code of Maryland

(2003 Replacement Volume and 2006 Supplement)

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

Article – Real Property

3–102.

(a) (1) Any other instrument affecting property, including any contract for the grant of property, or any subordination agreement establishing priorities between interests in property may be recorded.

(2) The following instruments also may be recorded:

(i) Any notice of deferred property footage assessment for street construction;

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

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

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

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

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

~~8-107.~~

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

~~(B) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

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

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

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

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

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

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

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

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

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

SUBTITLE 7. REGISTRY OF GROUND LEASES.

8-701.

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

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

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

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

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

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

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

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

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

(2) "GROUND LEASE HOLDER" INCLUDES:

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

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

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

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

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

8-702.

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

(B) THIS SUBTITLE DOES NOT APPLY TO PROPERTY:

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

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

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

8-703.

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

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

~~8-703.~~ 8-704.

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

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

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

(B) THE REGISTRATION ~~APPLICATION~~ FORM SHALL INCLUDE:

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

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

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

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

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

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

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

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

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

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

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

(2) FOR EACH ADDITIONAL GROUND LEASE:

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

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

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

~~8-704, 8-705.~~

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

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

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

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

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

~~§ 705.~~ § 706.

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

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

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

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

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

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

~~§ 706.~~ § 707.

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

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

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

~~§ 707. 8-708.~~

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

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

(C) THE EXTINGUISHMENT OF THE GROUND LEASE IS EFFECTIVE TO CONCLUSIVELY VEST A FEE SIMPLE TITLE IN THE LEASEHOLD TENANT, FREE AND CLEAR OF ANY AND ALL RIGHT, TITLE, OR INTEREST OF THE ~~LANDLORD~~ GROUND LEASE HOLDER, ANY LIEN OF A CREDITOR OF THE ~~LANDLORD~~ GROUND LEASE HOLDER, AND ANY PERSON CLAIMING BY, THROUGH, OR UNDER THE ~~LANDLORD~~ GROUND LEASE HOLDER WHEN THE LEASEHOLD TENANT RECORDS THE CERTIFICATE IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

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

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

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

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

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

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

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

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

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

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

(2) ~~MAY~~ ONCE THE GROUND LEASE EXTINGUISHMENT CERTIFICATE HAS BEEN FILED, MAY NOT BE REQUIRED TO PAY ANY SECURITY OR ANY AMOUNT INTO AN ESCROW ACCOUNT FOR THE EXTINGUISHED GROUND LEASE.

~~8-708.~~ 8-709.

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

8-710.

THE DEPARTMENT SHALL CREDIT ALL FEES COLLECTED UNDER THIS SUBTITLE TO THE FUND ESTABLISHED UNDER § 1-203.3 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE. FEES RECEIVED SHALL BE HELD IN A GROUND LEASE REGISTRY ACCOUNT IN THAT FUND AND SHALL HELP DEFRAY THE COSTS OF THE REGISTRY CREATED UNDER THIS SUBTITLE.

~~8-709.~~ 8-711.

THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

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

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

SECTION 4. AND BE IT FURTHER ENACTED, That the Comptroller of the State shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on or before December 31, 2007, on recommendations regarding the provision of notification, *by electronic and other means*, by the Comptroller to ground lease holders about the registration requirements with the State Department of Assessments and Taxation established under this Act, including providing notification in the yearly State income tax instruction booklet.

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

Approved by the Governor, May 8, 2007.