

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 134 (Delegate Holmes)
Environment and Transportation

Residential Property - Ground Leases - Notices of Default

This bill requires a ground lease holder to also send a copy of the first notice of default (that is required at least 60 days before filing an action for possession) to *any* holder of any secured interest in the property that is recorded in county land records, instead of only to the leasehold tenant. As a result, the bill ensures that the holder of a secured interest is informed of the opportunity to cure a default *twice*, after both the 60-day notice is sent and after the 30-day notice is sent (rather than only once by receiving a copy of just the 30-day notice). The bill also makes conforming changes.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations.

Local Effect: Changes to the notice requirement do not materially affect the finances or operations of those local governments that hold ground leases.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill also clarifies that the 60-day notice of default sent to a holder of a secured interest must include specified information about the holder's ability to cure the default by paying the delinquent rent as well as any interest, fees, collection costs, and expenses as authorized by statute. Moreover, the notice must include statements that the holder of the secured interest may pay the late rent and additional fees, as well as redeem the property.

Current Law: Generally, when a leasehold tenant under a ground lease fails to pay rent, the ground lease holder may bring an action for possession of the property. Ground lease holders are required to send specified notices of default at least 60 days and again at least 30 days before filing an action for possession.

At least 60 days before filing an action for possession, the ground lease holder must send a notice to the leasehold tenant's last known address as shown in the records of the State Department of Assessments and Taxation (SDAT) or any other place of business or residence, if known, by both first-class mail and certified mail, return receipt requested. The notice must be substantially the same as a notice contained on SDAT's website.

After the 60-day notice has been sent, and at least 30 days before filing an action for possession, the ground lease holder must send another notice, containing specified information, to the leasehold tenant's last known address as shown in SDAT's records (or any other place of business or residence, if known) by both first-class mail and certified mail, return receipt requested. The ground lease holder is *also* required to send a copy of the 30-day notice to any holder of record of a secured interest in the property that is subject to the ground lease, or any portion of the ground lease, that is recorded in the land records of the county in which the property is located (to the address shown in the land records or any other address, if known) by both first-class mail and certified mail, return receipt requested. That notice must include specified information alerting the holder of a secured interest about the opportunity to cure the default by paying the delinquent rent as well as any interest, fees, collection costs, and expenses as authorized by statute. The notice to the holder also has to include statements that the holder of the secured interest may pay the late rent and additional fees, as well as redeem the property.

Background: Chapter 428 of 2015 substantially reorganized the law related to ground leases applicable to residential property and made multiple additions. It repealed a provision of law that made the establishment of a lien the remedy for nonpayment of a ground rent on residential property and reinstated, with modifications, an action for possession as the remedy, similar to the posture of the law before 2007. It prohibited the holder of a ground lease from bringing an action against a tenant unless the ground lease is registered, and it prohibited the use of self-help to take possession of residential property. Chapter 428 also added new requirements for notice and service of process on a leasehold tenant, and it allowed for a holder of a security interest in a property subject to a ground lease to apply to redeem the reversion. Finally, in an ejectment action, Chapter 428 specified and placed limits on the expenses for which a ground lease holder may be reimbursed, and it clarified that recovery of a maximum of three years past-due ground rent is calculated from the date a specified notice was sent.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Anne Arundel, Baltimore, Carroll, Charles, Harford, Howard, Montgomery, Prince George's, and Worcester counties; Baltimore City; Judiciary (Administrative Office of the Courts); State Department of Assessments and Taxation; Department of Legislative Services

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