

HOUSE BILL 254

N1

8lr0102

By: **Chair, Environment and Transportation Committee (By Request –
Departmental – Assessments and Taxation)**

Introduced and read first time: January 19, 2018

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Ground Leases – Unlawful Collections**

3 FOR the purpose of prohibiting a certain ground lease holder from collecting or attempting
4 to collect certain payments or other expenses related to ground rent in violation of
5 certain provisions of law; authorizing the State Department of Assessments and
6 Taxation to strike from its records certain ground lease registrations submitted by a
7 certain ground lease holder under certain circumstances; providing for the treatment
8 of a ground lease that has been struck from the Department's records in accordance
9 with this Act; authorizing a leasehold tenant or agent of a leasehold tenant who
10 believes that a ground lease holder has violated certain provisions of law to submit
11 a certain affidavit and supporting documents to the Department; requiring the
12 Department to send a certain notice to the ground lease holder if the Department
13 receives a certain submission from a leasehold tenant or agent of a leasehold tenant;
14 requiring the Department to make available certain forms that must be used for
15 certain affidavits; requiring certain affidavits to be sworn to under penalty of
16 perjury; authorizing the Department to take certain default actions if the
17 Department has not received a certain counteraffidavit within a certain time frame;
18 requiring the Department to review certain submissions and make a certain
19 determination if the Department has received a certain counteraffidavit; requiring
20 the Department to send notice of certain determinations to certain parties;
21 authorizing certain parties to file an action for judicial determination of whether a
22 ground lease holder has violated certain laws in a certain court; requiring the action
23 to be filed within a certain time frame; prohibiting the Department from being joined
24 as a party to a certain proceeding; providing for service of process in a certain
25 proceeding; requiring a person who files an action under this Act to mail a copy of
26 the complaint to the Department within a certain time frame; authorizing the
27 Department to take action in accordance with a certain determination if the
28 Department does not receive a copy of the complaint within a certain time frame;
29 requiring the court, the parties, and the Department to take certain actions if the
30 court makes a certain determination; prohibiting the Department from charging any

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 fees to carry out its obligations under this Act; authorizing the Department to adopt
2 certain regulations; defining a certain term; and generally relating to ground leases.

3 BY adding to

4 Article – Real Property

5 Section 8–809.1

6 Annotated Code of Maryland

7 (2015 Replacement Volume and 2017 Supplement)

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

10 **Article – Real Property**

11 **8–809.1.**

12 (A) IN THIS SECTION, “DEPARTMENT” MEANS THE STATE DEPARTMENT OF
13 ASSESSMENTS AND TAXATION.

14 (B) (1) A GROUND LEASE HOLDER MAY NOT COLLECT OR ATTEMPT TO
15 COLLECT ANY INSTALLMENT PAYMENT, LATE FEE, INTEREST, COLLECTION COST, OR
16 OTHER EXPENSE RELATED TO GROUND RENT IN VIOLATION OF A PROVISION OF THIS
17 TITLE OR ANY OTHER LAW.

18 (2) IF THE DEPARTMENT DETERMINES IN ACCORDANCE WITH THIS
19 SECTION THAT A GROUND LEASE HOLDER HAS VIOLATED PARAGRAPH (1) OF THIS
20 SUBSECTION, THE DEPARTMENT MAY STRIKE FROM ITS RECORDS ANY GROUND
21 LEASE REGISTRATION SUBMITTED BY THE GROUND LEASE HOLDER UNDER
22 SUBTITLE 7 OF THIS TITLE.

23 (3) IF THE DEPARTMENT STRIKES A GROUND LEASE REGISTRATION
24 FROM ITS RECORDS IN ACCORDANCE WITH THIS SECTION, THE GROUND LEASE
25 SHALL BE TREATED AS NOT REGISTERED UNDER § 8–707 OF THIS TITLE.

26 (C) (1) A LEASEHOLD TENANT OR AN AGENT OF A LEASEHOLD TENANT
27 WHO BELIEVES THAT A GROUND LEASE HOLDER HAS VIOLATED SUBSECTION (B)(1)
28 OF THIS SECTION MAY SUBMIT TO THE DEPARTMENT AN AFFIDAVIT AND ANY
29 SUPPORTING DOCUMENTS STATING THE FACTUAL BASIS FOR THAT BELIEF.

30 (2) IF THE DEPARTMENT RECEIVES A SUBMISSION UNDER
31 PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL SEND A NOTICE TO
32 THE GROUND LEASE HOLDER THAT:

33 (I) INCLUDES A COPY OF THE AFFIDAVIT AND ANY SUPPORTING

1 DOCUMENTS SUBMITTED BY THE LEASEHOLD TENANT OR AGENT OF THE
2 LEASEHOLD TENANT;

3 (II) STATES THAT THE DEPARTMENT HAS RECEIVED AN
4 ALLEGATION THAT THE GROUND LEASE HOLDER HAS VIOLATED SUBSECTION (B)(1)
5 OF THIS SECTION; AND

6 (III) ADVISES THAT ANY GROUND LEASE REGISTRATION
7 SUBMITTED TO THE DEPARTMENT BY THE GROUND LEASE HOLDER MAY BE
8 STRICKEN FROM THE DEPARTMENT'S RECORDS UNLESS, WITHIN 45 DAYS AFTER
9 THE DATE ON THE NOTICE, THE GROUND LEASE HOLDER SUBMITS TO THE
10 DEPARTMENT A COUNTERAFFIDAVIT AND ANY SUPPORTING DOCUMENTS THAT:

11 1. SET FORTH THE GROUND LEASE HOLDER'S BELIEF
12 THAT THE COLLECTION OR ATTEMPTED COLLECTION DESCRIBED IN THE AFFIDAVIT
13 AND SUPPORTING DOCUMENTS SUBMITTED BY THE LEASEHOLD TENANT OR AGENT
14 OF THE LEASEHOLD TENANT DID NOT VIOLATE SUBSECTION (B)(1) OF THIS
15 SECTION; AND

16 2. PROVIDE THE FACTUAL BASIS FOR THAT BELIEF.

17 (3) THE NOTICE REQUIRED UNDER THIS SUBSECTION SHALL BE SENT
18 BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND BY FIRST-CLASS MAIL TO
19 THE GROUND LEASE HOLDER AT THE ADDRESS PROVIDED IN THE HOLDER'S
20 GROUND LEASE REGISTRATION OR AT ANY OTHER ADDRESS KNOWN TO THE
21 DEPARTMENT.

22 (D) (1) THE DEPARTMENT SHALL MAKE AVAILABLE FORMS THAT MUST
23 BE USED FOR AFFIDAVITS SUBMITTED IN ACCORDANCE WITH SUBSECTION (C)(1)
24 AND (2)(III) OF THIS SECTION.

25 (2) THE FORMS SHALL REQUIRE THAT THE AFFIDAVITS BE SWORN TO
26 UNDER PENALTY OF PERJURY.

27 (E) (1) THE DEPARTMENT MAY STRIKE FROM ITS RECORDS ANY GROUND
28 LEASE REGISTRATION SUBMITTED BY A GROUND LEASE HOLDER IF:

29 (I) AFTER THE EXPIRATION OF THE 45-DAY PERIOD SPECIFIED
30 IN THE NOTICE REQUIRED UNDER SUBSECTION (C)(2) OF THIS SECTION, THE
31 DEPARTMENT HAS NOT RECEIVED A COUNTERAFFIDAVIT FROM THE GROUND LEASE
32 HOLDER; AND

33 (II) THE DEPARTMENT REASONABLY BELIEVES THAT THE

1 GROUND LEASE HOLDER HAS VIOLATED SUBSECTION (B)(1) OF THIS SECTION.

2 (2) IF THE DEPARTMENT STRIKES A GROUND LEASE REGISTRATION
3 FROM ITS RECORDS UNDER THIS SUBSECTION, THE DEPARTMENT SHALL PROMPTLY
4 SEND NOTICE OF THE STRIKING TO THE GROUND LEASE HOLDER AND ANY PERSON
5 WHO SUBMITTED AN AFFIDAVIT UNDER SUBSECTION (C)(1) OF THIS SECTION.

6 (3) THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS
7 SUBSECTION SHALL BE SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED,
8 AND BY FIRST-CLASS MAIL.

9 (F) (1) IF THE DEPARTMENT RECEIVES A COUNTERAFFIDAVIT IN
10 RESPONSE TO A NOTICE SENT UNDER SUBSECTION (C)(2) OF THIS SECTION, THE
11 DEPARTMENT SHALL REVIEW ALL SUBMITTED AFFIDAVITS AND SUPPORTING
12 DOCUMENTS TO DETERMINE WHETHER THE GROUND LEASE HOLDER HAS VIOLATED
13 SUBSECTION (B)(1) OF THIS SECTION.

14 (2) IF, AFTER REVIEWING THE AFFIDAVITS AND SUPPORTING
15 DOCUMENTS, THE DEPARTMENT REASONABLY BELIEVES THAT THE GROUND LEASE
16 HOLDER HAS VIOLATED SUBSECTION (B)(1) OF THIS SECTION, THE DEPARTMENT
17 SHALL SEND TO ALL PERSONS WHO SUBMITTED AFFIDAVITS A FINAL NOTICE
18 STATING THAT:

19 (I) THE DEPARTMENT REASONABLY BELIEVES THAT THE
20 GROUND LEASE HOLDER HAS VIOLATED SUBSECTION (B)(1) OF THIS SECTION; AND

21 (II) THE DEPARTMENT MAY STRIKE ANY GROUND RENT
22 REGISTRATION SUBMITTED BY THE GROUND LEASE HOLDER UNLESS, WITHIN 45
23 DAYS AFTER THE DATE ON THE FINAL NOTICE, THE GROUND LEASE HOLDER FILES
24 AN ACTION FOR JUDICIAL DETERMINATION OF WHETHER THE GROUND LEASE
25 HOLDER HAS VIOLATED SUBSECTION (B)(1) OF THIS SECTION.

26 (3) IF, AFTER REVIEWING THE AFFIDAVITS AND SUPPORTING
27 DOCUMENTS, THE DEPARTMENT REASONABLY BELIEVES THAT THE GROUND LEASE
28 HOLDER DID NOT VIOLATE SUBSECTION (B)(1) OF THIS SECTION, THE DEPARTMENT
29 SHALL SEND TO ALL PERSONS WHO SUBMITTED AFFIDAVITS A FINAL NOTICE
30 STATING THAT:

31 (I) THE DEPARTMENT REASONABLY BELIEVES THAT THE
32 GROUND LEASE HOLDER DID NOT VIOLATE SUBSECTION (B)(1) OF THIS SECTION;
33 AND

34 (II) THE DEPARTMENT WILL TAKE NO FURTHER ACTION

1 UNLESS, WITHIN 45 DAYS AFTER THE DATE ON THE FINAL NOTICE, THE LEASEHOLD
2 TENANT FILES AN ACTION FOR JUDICIAL DETERMINATION OF WHETHER THE
3 GROUND LEASE HOLDER VIOLATED SUBSECTION (B)(1) OF THIS SECTION.

4 (4) THE FINAL NOTICE UNDER THIS SUBSECTION SHALL BE SENT BY
5 CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND BY FIRST-CLASS MAIL.

6 (G) (1) A PERSON WHO IS SENT A FINAL NOTICE UNDER SUBSECTION (F)
7 OF THIS SECTION AND DISAGREES WITH THE DEPARTMENT'S DETERMINATION MAY
8 FILE AN ACTION FOR JUDICIAL DETERMINATION OF WHETHER THE GROUND LEASE
9 HOLDER HAS VIOLATED SUBSECTION (B)(1) OF THIS SECTION:

10 (I) IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE
11 PERSON RESIDES; OR

12 (II) IF THE PERSON DOES NOT RESIDE IN MARYLAND, IN THE
13 CIRCUIT COURT FOR THE COUNTY IN WHICH THE PROPERTY THAT IS THE SUBJECT
14 OF THE ALLEGEDLY UNLAWFUL COLLECTION OR ATTEMPTED COLLECTION IS
15 LOCATED.

16 (2) AN ACTION UNDER THIS SUBSECTION SHALL BE FILED WITHIN
17 THE 45-DAY PERIOD DESCRIBED IN THE FINAL NOTICE REQUIRED UNDER
18 SUBSECTION (F) OF THIS SECTION.

19 (3) THE PARTIES TO A PROCEEDING UNDER THIS SUBSECTION SHALL
20 INCLUDE EACH PERSON WHO WAS SENT A FINAL NOTICE UNDER SUBSECTION (F) OF
21 THIS SECTION.

22 (4) THE DEPARTMENT MAY NOT BE JOINED AS A PARTY TO A
23 PROCEEDING UNDER THIS SUBSECTION.

24 (5) SERVICE OF PROCESS FOR A PROCEEDING UNDER THIS
25 SUBSECTION SHALL BE MADE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED,
26 AT THE LAST KNOWN ADDRESS OF EACH PARTY TO BE SERVED.

27 (6) (I) A PERSON WHO FILES AN ACTION UNDER THIS SUBSECTION
28 SHALL MAIL A COPY OF THE COMPLAINT TO THE DEPARTMENT WITHIN THE 45-DAY
29 PERIOD DESCRIBED IN THE FINAL NOTICE REQUIRED UNDER SUBSECTION (F) OF
30 THIS SECTION.

31 (II) IF THE DEPARTMENT DOES NOT RECEIVE A COPY OF A
32 COMPLAINT FILED UNDER THIS SUBSECTION WITHIN THE 45-DAY PERIOD
33 DESCRIBED IN THE FINAL NOTICE REQUIRED UNDER SUBSECTION (F) OF THIS

1 SECTION, THE DEPARTMENT SHALL TAKE ACTION IN ACCORDANCE WITH ITS FINAL
2 DETERMINATION.

3 (H) (1) IF A COURT DETERMINES THAT A GROUND LEASE HOLDER HAS
4 VIOLATED SUBSECTION (B)(1) OF THIS SECTION:

5 (I) THE COURT SHALL ENTER AN ORDER REQUIRING THE
6 DEPARTMENT TO STRIKE FROM ITS RECORDS ANY OR ALL GROUND LEASE
7 REGISTRATIONS SUBMITTED BY THE GROUND LEASE HOLDER UNDER SUBTITLE 7
8 OF THIS TITLE;

9 (II) THE PREVAILING PARTY SHALL PROVIDE A COPY OF THE
10 ORDER TO THE DEPARTMENT; AND

11 (III) ON RECEIPT OF THE ORDER, THE DEPARTMENT SHALL
12 PROMPTLY:

13 1. STRIKE THE REGISTRATION OF THE GROUND LEASE
14 OR LEASES; AND

15 2. ENTER A NOTATION ON THE DEPARTMENT'S
16 RECORDS INDICATING THAT THE GROUND LEASE REGISTRATION WAS STRICKEN IN
17 ACCORDANCE WITH A COURT ORDER.

18 (2) IF A COURT DETERMINES THAT A GROUND LEASE HOLDER HAS
19 NOT VIOLATED SUBSECTION (B)(1) OF THIS SECTION:

20 (I) THE COURT SHALL ENTER AN ORDER FINDING THAT THE
21 COLLECTION OR ATTEMPTED COLLECTION COMPLAINED OF BY THE LEASEHOLD
22 TENANT WAS NOT UNLAWFUL;

23 (II) THE PREVAILING PARTY SHALL PROVIDE A COPY OF THE
24 ORDER TO THE DEPARTMENT; AND

25 (III) ON RECEIPT OF THE COURT ORDER, THE DEPARTMENT
26 SHALL TAKE NO ACTION TO STRIKE THE GROUND LEASE REGISTRATION.

27 (I) THE DEPARTMENT MAY NOT:

28 (1) CHARGE A FEE TO CARRY OUT ITS OBLIGATIONS UNDER THIS
29 SECTION, INCLUDING THE COST OF SENDING ANY NOTICES REQUIRED UNDER THIS
30 SECTION; OR

1 **(2) REFUND ANY FEE PAID FOR THE INITIAL REGISTRATION OF A**
2 **GROUND LEASE STRICKEN UNDER THIS SECTION.**

3 **(J) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS**
4 **SECTION.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
6 1, 2018.