

**Department of Legislative Services**  
Maryland General Assembly  
2023 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

House Bill 118

(Delegate Holmes)

Environment and Transportation

Judicial Proceedings

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**Ground Leases – Notices and Billing – Forms and Requirements**

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This bill enhances notice and billing requirements, as applicable, when (1) a ground lease holder brings an action for possession for nonpayment of ground rent; (2) a ground lease holder seeks payment of ground rent; and (3) a ground lease is transferred. To facilitate these requirements, the State Department of Assessments and Taxation (SDAT) must develop (and make available online) specific documents that must be used by ground lease holders. A ground lease holder may not require the leasehold tenant to reimburse the holder for costs incurred in providing a notice or bill, as specified. The bill also establishes additional prohibitions regarding unregistered ground leases and expresses a specified declaration and intent of the General Assembly about ground rent redemptions.

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**Fiscal Summary**

**State Effect:** SDAT can comply with the bill’s requirements using existing budgeted resources. Otherwise, the bill is not anticipated to materially affect State finances or operations.

**Local Effect:** The bill does not materially affect local government operations or finances.

**Small Business Effect:** Minimal.

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## Analysis

### **Bill Summary/Current Law:**

#### *Ground Leases – In General*

Generally, a ground lease creates a leasehold estate in the grantee that is personal – not real – property. The grantor retains a reversion in the ground lease property and fee simple title to the land. Ground rent is paid to the grantor (the ground lease holder) for the use of the property for the term of the lease in annual or semiannual installments. Under a typical ground lease contract, the tenant agrees to pay all fees, taxes, and other costs associated with ownership of the property.

Under the Real Property Article, an irredeemable ground rent is a ground rent created under a ground lease executed before April 9, 1884, that does not contain a provision allowing the leasehold tenant to redeem the ground rent. However, statutory provisions require any ground lease holder of an irredeemable ground rent to take specified actions (*e.g.*, record a renewal notice of intention to preserve irredeemability) in order to protect this status.

SDAT is required to maintain an online registry of all properties that are subject to ground leases. If a ground lease is not registered in accordance with statutory provisions, the ground lease holder may not (1) collect any ground rent payments under the ground lease; (2) bring a civil action against the leasehold tenant to enforce any applicable rights; or (3) bring an action against the leasehold tenant under Subtitle 8 of the Real Property Article. The bill prohibits a leasehold tenant of an unregistered ground lease from being required to hold more than three years of ground rent in escrow for the unregistered ground lease.

The bill includes a declaration by the General Assembly that it is in the public interest for ground rents to be redeemed. It also expresses the intent of the General Assembly that SDAT use its ground rent redemption program to assist in the redemption of ground rents.

#### *Notice Requirements for Actions for Possession*

Generally, under current law, prior to filing an action for possession for nonpayment of ground rent, the ground lease holder must send a notice at least 60 days in advance to the leasehold tenant's last known address (as shown in SDAT's records) by first-class mail and certified mail, return receipt requested. After such notice has been sent and no fewer than 30 days before filing an action for possession, the ground lease holder must send a second notice in the same manner.

The bill adds that in both instances (1) the holder must also send the notice to the premises (property) address and (2) if the leasehold tenant's last known mailing address and the premises address are different, the holder must mail one copy of the notice by first-class mail and one copy of the notice by certified mail, return receipt requested, to each address, respectively.

Under current law, the initial notice referenced above must be in substantially the same form as the notice contained on SDAT's website. The bill repeals this provision and instead requires SDAT to develop and make available on its website a form for use by a ground lease holder. Statute currently includes specific requirements regarding the second notice, such as that it must include, among other items, an itemized bill for the payment due and a statement that unless the default is cured in 30 days, the ground lease holder intends to file an action for possession. The bill similarly requires SDAT to develop and make available on its website a form for use by a ground lease holder that requires the items currently specified in statute.

Under current law, if authorized under the ground lease, a ground lease holder may be reimbursed for reasonable late fees, interest, collection costs, and expenses, as specified. However, as previously stated, the bill prohibits a ground lease holder from requiring a leasehold tenant to reimburse the holder for costs incurred in providing the aforementioned notices.

#### *Ground Rent Billing Requirements*

Under current law, a ground lease holder may only collect ground rent installment payments if (1) the lease is registered with SDAT and (2) a bill – that includes a notice meeting requirements specified in statute – is sent to the tenant and the property address at least 60 days before the payment is due.

The bill requires that:

- if the leasehold tenant's last known mailing address and the premises address listed in the records of SDAT are identical, the holder must mail one copy of the bill to the address by first-class mail and one copy of the bill to the address by certified mail, return receipt requested and
- if the leasehold tenant's last known mailing address and the premises address are different, the holder must mail one copy of the bill by first-class mail and one copy of the bill by certified mail, return receipt requested, to each address, respectively.

SDAT must develop and make available on its website a form for use by a ground lease holder (that includes a notice meeting the requirements specified in existing statutory provisions).

## *Transfer of Ground Leases*

Under current law, within 30 days after the transfer of any ground lease, the transferee must notify the leasehold tenant of the transfer. The notification must generally include the new ground lease holder's name and address, the date of the transfer, and, if the property is subject to a redeemable ground rent, notice that the tenant has the right to redeem or purchase the ground lease from the ground lease holder. The ground lease holder must send this notice to the tenant's last known address.

The bill adds that the holder must also send the notice to the premises address (as listed in SDAT's records) and specifies that notice must be sent by first-class mail and certified mail, return receipt requested. Additionally, if the leasehold tenant's last known mailing address and the premises address are different, the holder must mail one copy of the notice by first-class mail and one copy of the notice by certified mail, return receipt requested, to each address, respectively. The bill also requires a notice to be sent to SDAT.

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### **Additional Information**

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** SB 194 (Senators Sydnor and Hayes) - Judicial Proceedings.

**Information Source(s):** Baltimore City; Judiciary (Administrative Office of the Courts); State Department of Assessments and Taxation; Department of Legislative Services

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