
To: Members of The Senate Judicial Proceedings Committee
From: William A. O'Connell, Chair, Legislative Committee, Real Property Section
Date: January 27, 2020

Subject: **SB 170** – Real Property – Ground Leases
– Past Due Ground Rent

Position: **Support**

The Maryland State Bar Association (MSBA) **supports Senate Bill 170 Real Property – Ground Leases – Past Due Ground Rent.**

The MSBA supports SB 170, a bill that would prevent a ground rent holder from attempting to collect from a homeowner, past due ground rent accruing during a time when the ground rent had not been registered with the Maryland State Department of Assessments and Taxation (SDAT) as is required under existing law.

Maryland law requires that each ground rent owner register their ground rent at SDAT. Although a failure to register prevents a ground rent owner from filing suit to collect or repossess the home, current law does not address a common situation, where the ground rent owner has failed to register and a seller and purchaser cannot identify and/or locate the ground rent owner prior to the real estate closing in order to facilitate payment of the ground rent. When this situation occurs, the title insurance agent has no option other than to escrow the statutory maximum of three years' back rent and statutory attorneys' fees. This is because, under present law, once the ground rent owner does register, the ground rent owner is then entitled to collect the past due rent from the new homeowner and (or from the past owner, if an escrow has been established). This process is often confusing to consumers and is time consuming and expensive for title agents and title attorneys who must draft escrow agreements, hold the escrowed funds and ultimately pay over the funds to the proper party upon termination of the escrow.

SB 170 would prevent a ground rent owner who had failed to register their ground rent, from coming forward years later to collect ground rent accruing during the period of time in which the ground rent owner failed to comply with Maryland's registration law. For the reasons stated above, the MSBA **supports SB 170 and urges a favorable committee report.** Thank you and please do not hesitate to contact me at (443) 741-4536 or waoconnell@firstam.com.