

# SENATE BILL 193

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CF HB 92

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By: **Senators Sydnor and Hayes**

Introduced and read first time: January 20, 2023

Assigned to: Judicial Proceedings

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Committee Report: Favorable

Senate action: Adopted

Read second time: February 24, 2023

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Ground Leases – Collection of Rent, Interest, Fees, and Other Expenses –**  
3 **Registration Requirements**

4 FOR the purpose of establishing that ground leases and amendments that are not posted  
5 on the State Department of Assessments and Taxation’s website are not considered  
6 registered; prohibiting a ground lease holder from collecting or attempting to collect  
7 rent, late fees, interest, collection costs, and other expenses related to a ground lease  
8 unless the ground lease is registered with the Department; establishing a process  
9 within the Department to render decisions on the legality of efforts by a ground lease  
10 holder to collect rent, late fees, interest, collection costs, and other expenses;  
11 authorizing a ground lease holder or leasehold tenant to file suit in circuit court for  
12 a certain judicial determination following a decision by the Department; requiring  
13 the Department to develop and make available certain forms and post a certain  
14 notice on its website; and generally relating to ground leases.

15 BY repealing and reenacting, with amendments,  
16 Article – Real Property  
17 Section 8–703 and 8–707  
18 Annotated Code of Maryland  
19 (2015 Replacement Volume and 2022 Supplement)

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

22 **Article – Real Property**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 8-703.

2 (a) (1) The Department shall maintain an online registry of all properties that  
3 are subject to ground leases.

4 (2) The online registry shall:

5 (i) Identify properties for which a renewal notice to preserve the  
6 irredeemability of an irredeemable ground lease has been filed; and

7 (ii) Include a clear notation of the expiration date for each renewal  
8 notice.

9 (b) **A GROUND LEASE OR AN AMENDMENT IS NOT REGISTERED UNTIL THE**  
10 **GROUND LEASE OR AMENDMENT IS POSTED ON THE ONLINE REGISTRY.**

11 (c) The Department is not responsible for the completeness or accuracy of the  
12 contents of the online registry.

13 8-707.

14 (A) If a ground lease is not registered in accordance with this subtitle, the ground  
15 lease holder may not:

16 (1) Collect **OR ATTEMPT TO COLLECT** any ground rent payments [due  
17 under], **LATE FEES, INTEREST, COLLECTION COSTS, OR OTHER EXPENSES RELATED**  
18 **TO** the ground lease;

19 (2) Bring a civil action against the leasehold tenant to enforce any rights  
20 the ground lease holder may have under the ground lease; or

21 (3) Bring an action against the leasehold tenant under Subtitle 8 of this  
22 title.

23 (B) (1) **A LEASEHOLD TENANT WHO BELIEVES THAT A GROUND LEASE**  
24 **HOLDER HAS COLLECTED OR ATTEMPTED TO COLLECT GROUND RENT PAYMENT,**  
25 **LATE FEES, INTEREST, COLLECTION COSTS, OR OTHER EXPENSES RELATED TO THE**  
26 **GROUND LEASE IN VIOLATION OF SUBSECTION (A)(1) OF THIS SECTION MAY SUBMIT**  
27 **TO THE DEPARTMENT AN AFFIDAVIT STATING THE FACTUAL BASIS FOR THE**  
28 **LEASEHOLD TENANT'S BELIEF AND ANY DOCUMENTS IN SUPPORT OF THE**  
29 **AFFIDAVIT.**

30 (2) **ON RECEIPT OF AN AFFIDAVIT AND ANY SUPPORTING**  
31 **DOCUMENTS SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE**

1 DEPARTMENT SHALL SEND NOTICE TO THE GROUND LEASE HOLDER THAT IS THE  
2 SUBJECT OF THE SUBMISSION STATING THAT:

3 (I) THE DEPARTMENT HAS RECEIVED A SUBMISSION  
4 ALLEGING THAT THE GROUND LEASE HOLDER HAS VIOLATED SUBSECTION (A)(1) OF  
5 THIS SECTION; AND

6 (II) THE RELEVANT GROUND LEASE REGISTRATION OR  
7 AMENDMENT SUBMITTED TO THE DEPARTMENT BY THE GROUND LEASE HOLDER  
8 FOR THE PROPERTY IN QUESTION MAY BE VOIDED IN THE DEPARTMENT'S RECORDS  
9 UNLESS, WITHIN 45 DAYS AFTER THE NOTICE, THE GROUND LEASE HOLDER SUBMITS  
10 TO THE DEPARTMENT A COUNTER-AFFIDAVIT AND ANY DOCUMENTS IN SUPPORT OF  
11 THE COUNTER-AFFIDAVIT THAT SETS FORTH THE GROUND LEASE HOLDER'S BELIEF  
12 THAT ANY COLLECTION OR ATTEMPTED COLLECTION DESCRIBED IN THE AFFIDAVIT  
13 DID NOT VIOLATE SUBSECTION (A)(1) OF THIS SECTION AND THE FACTUAL BASIS  
14 FOR THAT BELIEF.

15 (3) NOTICE SENT TO THE GROUND LEASE HOLDER UNDER  
16 PARAGRAPH (2) OF THIS SUBSECTION SHALL:

17 (I) BE SENT BY CERTIFIED MAIL, RETURN RECEIPT  
18 REQUESTED, AND BY FIRST-CLASS MAIL TO THE ADDRESS PROVIDED IN THE  
19 GROUND LEASE HOLDER'S GROUND LEASE REGISTRATION OR AMENDMENT, OR TO  
20 ANY OTHER ADDRESS USED BY THE GROUND LEASE HOLDER KNOWN TO THE  
21 DEPARTMENT; AND

22 (II) INCLUDE A COPY OF THE AFFIDAVIT AND ANY SUPPORTING  
23 DOCUMENTS SUBMITTED BY THE LEASEHOLD TENANT TO THE DEPARTMENT.

24 (C) (1) IF, AFTER REVIEWING ANY AFFIDAVITS, TIMELY SUBMITTED  
25 COUNTER-AFFIDAVITS, AND ANY SUPPORTING DOCUMENTS, THE DEPARTMENT  
26 REASONABLY BELIEVES THAT THE GROUND LEASE HOLDER VIOLATED SUBSECTION  
27 (A)(1) OF THIS SECTION, THE DEPARTMENT MAY MAKE A FINAL DECISION.

28 (2) FOLLOWING A DECISION MADE UNDER PARAGRAPH (1) OF THIS  
29 SUBSECTION, THE DEPARTMENT SHALL PROMPTLY SEND TO ALL PERSONS WHO  
30 SUBMITTED AFFIDAVITS AND COUNTER-AFFIDAVITS NOTICE OF THE DECISION.

31 (3) NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION  
32 SHALL:

33 (I) BE SENT BY CERTIFIED MAIL, RETURN RECEIPT  
34 REQUESTED, AND BY FIRST-CLASS MAIL; AND

1 (II) STATE THAT THE DEPARTMENT:

2 1. REASONABLY BELIEVES THAT THE GROUND LEASE  
3 HOLDER HAS VIOLATED SUBSECTION (A)(1) OF THIS SECTION; AND

4 2. MAY VOID A RELEVANT GROUND LEASE  
5 REGISTRATION OR AMENDMENT IN THE DEPARTMENT'S RECORDS UNLESS, WITHIN  
6 45 DAYS AFTER THE DATE OF THE NOTICE, THE GROUND LEASE HOLDER FILES AN  
7 ACTION IN THE CIRCUIT COURT UNDER SUBSECTION (E) OF THIS SECTION.

8 (D) (1) IF, AFTER REVIEWING ANY AFFIDAVITS, TIMELY SUBMITTED  
9 COUNTER-AFFIDAVITS, AND SUPPORTING DOCUMENTS, THE DEPARTMENT  
10 REASONABLY BELIEVES THAT THE GROUND LEASE HOLDER DID NOT VIOLATE  
11 SUBSECTION (A)(1) OF THIS SECTION, THE DEPARTMENT SHALL PROMPTLY SEND  
12 TO ALL PERSONS WHO SUBMITTED AFFIDAVITS OR TIMELY FILED  
13 COUNTER-AFFIDAVITS NOTICE OF THE DECISION.

14 (2) NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION  
15 SHALL:

16 (I) BE SENT BY CERTIFIED MAIL, RETURN RECEIPT  
17 REQUESTED, AND BY FIRST-CLASS MAIL; AND

18 (II) STATE THAT:

19 1. THE DEPARTMENT REASONABLY BELIEVES THAT THE  
20 GROUND LEASE HOLDER DID NOT VIOLATE SUBSECTION (A)(1) OF THIS SECTION;  
21 AND

22 2. THE DEPARTMENT WILL TAKE NO FURTHER ACTION  
23 UNLESS, WITHIN 45 DAYS AFTER THE DATE OF THE NOTICE, THE LEASEHOLD  
24 TENANT FILES AN ACTION IN THE CIRCUIT COURT UNDER SUBSECTION (E) OF THIS  
25 SECTION.

26 (E) (1) FOLLOWING NOTICE OF A FINAL DECISION BY THE DEPARTMENT  
27 MADE UNDER THIS SECTION, A GROUND LEASE HOLDER OR A LEASEHOLD TENANT  
28 MAY FILE AN ACTION IN THE CIRCUIT COURT.

29 (2) AN ACTION FILED UNDER THIS SUBSECTION SHALL BE FILED:

30 (I) WITHIN 45 DAYS AFTER THE DATE OF NOTICE BY THE  
31 DEPARTMENT; AND

1                   **(II) 1. IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH**  
2 **THE PETITIONER RESIDES; OR**

3                   **2. IF THE PERSON DOES NOT RESIDE IN THE STATE, IN**  
4 **THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE PROPERTY SUBJECT TO THE**  
5 **GROUND LEASE IS LOCATED.**

6                   **(3) AN ACTION FILED UNDER THIS SUBSECTION SHALL BE HEARD DE**  
7 **NOVO BY THE CIRCUIT COURT.**

8                   **(4) EACH PERSON WHO WAS SENT A NOTICE UNDER SUBSECTION (C)**  
9 **OR (D) OF THIS SECTION SHALL BE A PARTY TO AN ACTION FILED UNDER THIS**  
10 **SUBSECTION.**

11                   **(5) THE DEPARTMENT MAY NOT BE JOINED AS A PARTY IN AN ACTION**  
12 **UNDER THIS SUBSECTION.**

13                   **(F) (1) IF A COURT DETERMINES THAT A GROUND LEASE HOLDER HAS**  
14 **VIOLATED SUBSECTION (A)(1) OF THIS SECTION:**

15                   **(I) THE COURT SHALL ENTER AN ORDER REQUIRING THE**  
16 **DEPARTMENT TO VOID THE APPROPRIATE GROUND LEASE REGISTRATION OR**  
17 **AMENDMENT IN THE DEPARTMENT'S RECORDS;**

18                   **(II) THE PREVAILING PARTY SHALL PROVIDE A COPY OF THE**  
19 **ORDER TO THE DEPARTMENT; AND**

20                   **(III) THE DEPARTMENT SHALL PROMPTLY VOID THE**  
21 **REGISTRATION OR AMENDMENT AND ENTER A NOTATION IN THE DEPARTMENT'S**  
22 **RECORDS THAT THE RELEVANT GROUND LEASE REGISTRATION OR AMENDMENT IS**  
23 **VOID UNDER A COURT ORDER.**

24                   **(2) IF A COURT DETERMINES THAT THE GROUND LEASE HOLDER HAS**  
25 **NOT VIOLATED SUBSECTION (A)(1) OF THIS SECTION:**

26                   **(I) THE COURT SHALL ENTER AN ORDER FINDING THAT THE**  
27 **COLLECTION OR ATTEMPTED COLLECTION THAT WAS THE SUBJECT OF THE**  
28 **COMPLAINT WAS NOT UNLAWFUL; AND**

29                   **(II) THE PREVAILING PARTY SHALL PROVIDE A COPY OF THE**  
30 **ORDER TO THE DEPARTMENT.**

1           **(G) (1) A GROUND LEASE HOLDER OR LEASEHOLD TENANT WHO FILES AN**  
2 **ACTION UNDER SUBSECTION (E) OF THIS SECTION SHALL MAIL A COPY OF THE**  
3 **COMPLAINT TO THE DEPARTMENT WITHIN 45 DAYS AFTER THE DATE OF NOTICE OF**  
4 **DECISION ISSUED BY THE DEPARTMENT.**

5           **(2) IF THE DEPARTMENT DOES NOT RECEIVE A COPY OF A**  
6 **COMPLAINT FILED UNDER SUBSECTION (E) OF THIS SECTION WITHIN 45 DAYS AFTER**  
7 **THE DATE OF THE NOTICE OF DECISION ISSUED BY THE DEPARTMENT, THE**  
8 **DEPARTMENT SHALL TAKE ACTION IN ACCORDANCE WITH ITS FINAL DECISION.**

9           **(H) A GROUND LEASE REGISTRATION OR AMENDMENT THAT HAS BEEN**  
10 **VOIDED BY THE DEPARTMENT UNDER THIS SECTION MAY NOT BE CONSIDERED**  
11 **REGISTERED.**

12           **(I) THE DEPARTMENT SHALL INCLUDE NOTICE ON ALL GROUND RENT**  
13 **FORMS AND ON ITS WEBSITE IN SUBSTANTIALLY THE FOLLOWING FORM:**

14           **“NOTICE REQUIRED BY LAW: A GROUND RENT LEASE HOLDER MAY NOT**  
15 **COLLECT OR ATTEMPT TO COLLECT GROUND RENT, LATE FEES, INTEREST,**  
16 **COLLECTION COSTS, OR ANY OTHER EXPENSES RELATED TO A GROUND LEASE THAT**  
17 **IS NOT REGISTERED AND POSTED ON THE DEPARTMENT’S ONLINE GROUND RENT**  
18 **REGISTRY.”.**

19           **(J) (1) THE DEPARTMENT SHALL DEVELOP A FORM AFFIDAVIT AND A**  
20 **FORM COUNTER-AFFIDAVIT THAT SHALL BE USED BY A LEASEHOLD TENANT AND**  
21 **GROUND LEASE HOLDER, RESPECTIVELY, FOR SUBMISSIONS MADE TO THE**  
22 **DEPARTMENT UNDER SUBSECTION (B) OF THIS SECTION.**

23           **(2) THE FORM AFFIDAVIT AND FORM COUNTER-AFFIDAVIT**  
24 **DEVELOPED BY THE DEPARTMENT SHALL INCLUDE AN ACKNOWLEDGMENT THAT**  
25 **THE FORM IS BEING SIGNED UNDER PENALTY OF PERJURY.**

26           **(K) THE DEPARTMENT MAY NOT CHARGE A FEE TO CARRY OUT THIS**  
27 **SECTION.**

28           **(L) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS**  
29 **SECTION.**

30           **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**  
31 **October 1, 2023.**