

GARY R. ALEXANDER \*\*\*

JAMES A. CLEAVER \*\*

D. K. POUNDS \*\*

RHISE M. BOWMAN \*\*

JOSEPH P. HART \*\*\*

JASON A. DELOACH \*

JAMES K. MCGEE \*

LORENZO BELLAMY +\*

ADMITTED TO PRACTICE IN \*MD \*DC \*VA \*PA

# ALEXANDER & CLEAVER

ATTORNEYS AT LAW  
*Professional Association*

MARYLAND • DISTRICT OF COLUMBIA • VIRGINIA

410-974-9000

301-970-1959 WASHINGTON METRO AREA

FAX: 410-974-9002 • CABLE: "ALEXLAW"

ac@alexander-cleaver.com

www.alexander-cleaver.com

1-800-292-LAWS

54 STATE CIRCLE  
ANNAPOLIS, MD 21401-1904

OFFICES:

CUMBERLAND, MD  
FORT WASHINGTON, MD  
WALDORF, MD  
ALEXANDRIA, VA

GOVERNMENT RELATIONS

CONSULTANTS:

CASPER R. TAYLOR, JR.  
ROBIN FOGEL SHAVITZ  
LYLE W. FOWLKES  
J. KENNETH BATTLE, JR.  
STEVEN L. ARABIA

## **Testimony in Support with Amendments of HB 502 - Ground Rents - Notices Regarding Ground Leases On behalf of the Ground Rent Owners Coalition House Environmental Matters Committee**

February 22, 2007

We are here today representing the Ground Rent Owners Coalition, composed of investors of all types who own ground rents, including attorneys who are experts in property law. Ground rent owners in Maryland have vested constitutional legal rights because they own the land and are protected just as any other land owner. The Coalition supports reasonable changes and improvements in the enforcement process, but ground rent owners deserve protection also. If owners' fees are established or so-called reforms overburden an already complex enforcement process, the ground rent owner may be deprived of legal rights also. We have submitted to the committee an exhibit showing the enforcement and notice process that exists today, and there are already numerous built-in protections and notice throughout the enforcement process. Thus, the legislative process must carefully balance the interests of all parties, including the owners who for hundreds of years have invested in ground rents in Maryland.

The Coalition supports the intent of HB 502 and will be offering technical amendments to the Committee. The general nature of those amendments is described in the testimony of R. Marc Goldberg, who is on the panel with us today.

Gary R. Alexander, Esq.  
Lorenzo M. Bellamy, Esq.  
Alexander & Cleaver



JAMES T. SMITH, JR.  
*County Executive*

FRANK J. PRINCIPE JR., *Government Affairs Director*  
ERIN P. FAVAZZA, *State Affairs Director*  
*Legislative Liaison Office*

### House Bill 502

**To:** House Environmental Matters Committee

**From:** James T. Smith, Jr., County Executive

**Staff Contact:** Erin P. Favazza, State Affairs Director

**Title:** Ground Rents – Notices Regarding Ground Leases

**Sponsor:** Delegate Stein and the Speaker (By Request – Administration)

**Position:** SUPPORT

Baltimore County **SUPPORTS** House Bill 502 because it is part of an overall legislative package to reform Maryland’s antiquated ground rent system that has unjustly caused families to lose their homes. While Baltimore County does not have definitive data on the number of ground rents in the County, based on anecdotal accounts, many are located in the County.

Additionally, the County supports the other pieces of the Governor’s legislative package to reform ground rents that will provide homeowners with better protection, understanding, and opportunities to buy their own ground rents, as well as provide a more equitable remedy for failure to pay the ground rent. Those pieces of legislation include:

- Prohibit the use of ejectment as a remedy for the nonpayment of ground rent;
- Establish that the sole remedy for the nonpayment of ground rent is the creation of a lien in the amount of the ground rent due;
- Require that in order to create a lien, the ground rent must be at least 6 months in arrears and the ground rent owner must provide written notice to the tenant;
- Repeal the waiting period for a tenant to redeem a ground rent and require that the ground rent owner give the tenant the first opportunity to redeem a ground rent before offering to a third party;

- Create a registry and on-line database for ground rents and properties subject to ground rents with the Maryland State Department of Assessments and Taxation; and
- Decrease, from 20 years to 3 years, the amount of time after which, if no demand or payment of ground rent is made, a ground rent is extinguished.

For these reasons, Baltimore County **SUPPORTS** HB 502 and requests a **FAVORABLE** report.

# GROUND RENT COLLECTION

Background	<ul style="list-style-type: none"><li>✓ Ground rent generally can be redeemed at any time at a 6 percent capitalization.</li><li>✓ Ground rents are due semi-annually, with payments due after the property has been used for six months.</li><li>✓ January 1<sup>st</sup> – Payment due for ground rent on property from July through December (for example).</li><li>✓ July 1<sup>st</sup> – Payment due for ground rent on property from January through June (for example).</li></ul>
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JULY 15<sup>TH</sup>

(Ground rent due on January 1<sup>st</sup> is over six months in arrears. Ground rent due July 1<sup>st</sup> unpaid.)

Notices	<ul style="list-style-type: none"><li>✓ Preliminary notice to tenant that ground rent is six months in arrears and failure to pay arrearage within 30 days will lead to a formal collection with tenant responsible for fees and expenses. Must be 14 point bold font.</li></ul> <p style="text-align: center;"><b>TENANT'S FAILURE TO RESPOND TO NOTICE AFTER 30+ DAYS PROMPTS GROUND RENT OWNER TO CONTACT LAWYER REGARDING DEBT COLLECTION.</b></p> <ul style="list-style-type: none"><li>✓ Pursuant to § 8-402.2(a) of the Real Property Article of the Maryland Annotated Code (SECOND) statutory notice to tenant and title company that ground rent is more than six months in arrears. Failure to pay arrearage within 45 days can lead to ejectment action filed to repossess property.<ul style="list-style-type: none"><li>▪ Title abstract to determine status of title and proper party(ies) for mailing and suit if necessary. An effort to get a responsible party to pay the debt.</li><li>▪ Judgment reports to determine whether there have been foreclosures on the property, lien holders with an interest in the property.</li><li>▪ Attorney's fees for document review, drafting documents and communication and coordination between vendors.</li><li>▪ Certified and First Class Mailings to all interested parties.</li></ul></li></ul>
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SEPTEMBER 25<sup>TH</sup>

(Tenant fails to respond to two notices sent in a 60+ days period.)

Court Action  
§ 14-108.1  
(Possession)

- ✓ Attorney's fees for drafting complaint, drafting motions, drafting writ of possession, court time, trial preparation, review of documents, drafting documents, and communication and coordination between vendors.
- ✓ Court Costs.
- ✓ Service of Process.
- ✓ Additional title abstract and examination charges needed to find updated information relating to any and all interested parties in the property.
- ✓ Postage fees associated with various mailings required during litigation to provide notice to all interested parties (estates, mortgage holders, other lien holders, prior title holders, etc.) that property rights may be extinguished.

GARY R. ALEXANDER  
**ALEXANDER & CLEAVER**  
ATTORNEYS AT LAW  
*Professional Association*

ANNAPOLIS, MD • CUMBERLAND, MD • FORT WASHINGTON, MD  
WASHINGTON, DC • ALEXANDRIA, VA

**FOR YOUR INFORMATION**

54 STATE CIRCLE  
ANNAPOLIS, MD 21401-1904  
GALEXANDER@ALEXANDER-CLEAVER.COM  
WWW.ALEXANDER-CLEAVER.COM

410-974-9000  
800-292-5297  
FAX 410-974-9002  
CELL 410-279-1008



Maryland Association of REALTORS®, Inc.  
2594 Riva Road, Annapolis, MD 21401-7406

Mary C. Antoun  
Executive Vice President

William A. Castelli  
Vice President of Government Affairs

410.841.6080

## **House Bill 502 – Ground Rents – Notices Regarding Ground Leases**

### **Position: Support with Amendments**

The Maryland Association of REALTORS® (MAR) supports HB 502 which would require certain notices regarding ground rents.

HB 502 would require certain information to be included in the installment payment bill sent to ground rent tenants. The notice would have to specify to whom payments should be sent, the cost of the yearly ground rent, and the tenant's rights and responsibilities under the ground rent. MAR believes that this notice (which would occur at least annually) is important and justified. MAR believes that the date the ground rent was created as well as its redemption value should also be included in the notice.

Additionally, MAR supports the requirement the tenant notify the landlord of any change in address, so that bills may be properly mailed to them.

However, MAR is opposed to including a notice in real estate contracts. Real estate contracts are already required to include a notice informing buyers that a property with a ground rent could be subject to ejection if an owner does not pay the ground rent.

In addition, unlike a bill payment where the notice provisions will clearly stand out, the notice requirement proposed by HB 502 for real estate contracts will be one page in a document that can easily exceed 40 pages. Much of this information could be "lost" to a buyer trying to read all of the contract provisions.

Finally, if the ground rent owner has not been identified, the existence of the ground rent may not even be known until a title attorney starts to prepare the title for the property transfer. That typically would occur near the end of the property transfer, a few weeks after the contract was signed by both parties. At that point, the seller of the property (who is not the ground rent owner) is liable for not providing a disclosure that the seller never even knew he/she had to provide.



MAR supports HB 502 with the amendments offered by the Greater Baltimore Board of REALTORS® (GBBR).

**GBBR Amendments to HB 502**

No. 1 On page 3, after line 25 insert:

THIS GROUND RENT WAS CREATED ON (DAY, MONTH AND YEAR GROUND RENT WAS CREATED) AND MAY REDEEMED FOR THE SUM OF \$(USE THE LESSER OF THE REDEMPTION AMOUNT PROVIDED BY THE UNDERLYING GROUND LEASE OR REAL PROPERTY SECTION 8-110).

No. 2 On page 4, line 33, and on page 5, line 7, strike the brackets.

No. 3 On page 5, line 8 through page 6, line 19, strike in its entirety.

R. MARC GOLDBERG, P.C.  
ATTORNEY AT LAW

201 N. CHARLES STREET  
SUITE 600  
BALTIMORE, MARYLAND 21201  
(410) 576-1155  
(410) 576-0129 fax

GROUND RENT OWNERS COALITION  
TESTIMONY IN SUPPORT OF HB 502  
WITH AMENDMENT

GROUND RENTS - NOTICES REGARDING GROUND LEASES

Offered Before The House Environmental Matters Committee

February 22, 2007

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The GRO Coalition is a collection of real estate investors, attorneys, and other individuals from across Maryland who own ground rents.

The GRO Coalition's mission is to adequately strike a balance between protecting consumer rights and protecting existing property interests of its member real estate investors and professionals.

The GRO Coalition extends its open hand to the legislature in modernizing the existing procedure for the collection of ground rents. Of the eight administration bills, the GRO Coalition supports, with amendments, most, but not all.

The GRO Coalition supports efforts to make ground rent redemption a natural part of every capital real estate transaction so that, by natural means, ground rents will become extinct, within a short period of time.

Meanwhile, however, Tenants have an existing obligation to pay ground rent. Tenants may be given several notices to pay their obligations, but the nature of the ground rent property interest is such that failure to pay does result in consequences.

The GRO Coalition welcomes the opportunity to work with the legislature in crafting appropriate solutions which balance the existing property rights of ground rent owners with reasonable additional protections for Tenants.



GRO Coalition Testimony In Support of HB 502  
**With Amendment**  
February 22, 2007  
Page 2

GRO generally supports this bill with the following issues addressed:

**Issue:**

- Bill must address the most frequent causes of Tenants not receiving bills for ground rent: transfer of property, transfer of mortgage servicing, failure to notify Department of Assessments of new address.

**GRO Coalition response:**

- This bill should address all changes which result in Tenants not receiving ground rent bills.
- Responsibility for notifying Landlord must have consequences for failure to do so.
- Each party to such a transfer must be required to give notice. Title companies, mortgage companies, Tenants, attorneys, all must be responsible for compliance.
- Compliance must be proven by certificate of mailing/certified mail.

**Issue:**

- Requirement of Landlord to bill for ground rent.

**GRO Coalition response:**

- It is not necessary to say that a bill must be rendered a certain period of time before a due date. There is no actual delinquency until a ground rent is six (6) months in arrears after it has been billed.
- Bill could be amended to read that ground rent payment is due within thirty (30) days after Landlord renders the bill.

# ENVIRONMENTAL MATTERS COMMITTEE

(PLEASE PRINT CLEARLY)

Date 2/22/07

PRO (for)  
FWA (fav. with amend.)  
OPP (against)

Name	Address	Phone	Representing	PRO	FWA	OPP
1 <del>Gary R. Alexander</del>	Alexander's Cleaver	410-974 9000	GRD Coalition		X	
2 <del>R Marc Goldberg</del>			Ridge Title		X	
3 <del>CAROLYN and Bill Costello</del> SPANEL	GBB21 MARZ	410 337 7200 410 841 6080	Recitours		✓	
4 <del>Lee Hudson (written only)</del>	41 State Circle 21401	410-268- 4122	Lutheran Office	✓		
5 <del>Bill Pitzer</del> <del>Jim Cosgrove</del>		410-268- 0842	MLTA		✓	
6 <del>Paul Graziano</del>	88 State Circle	410 269 0207	Baltimore City Housing	✓		
7 <del>Bill Burgee</del>				✓		
8 <del>Joseph Bryce</del>	State House	410-971-3336	Governor's office	✓		
9 <del>Katani K. Howard</del>	11 E. Fayette St Baltimore Md 21202	410-539- 2310	Regional Mansets inc		✓	
10 <del>Charles Huskin</del>	1906 Martins Cove Ct Annapolis MD 21409	410.349.9572	self		✓	NA

Panel

Page 5

**Environmental Matters Committee  
VOTING RECORD  
2007**

H.B. 502 H.J.R. \_\_\_\_\_ S.B. \_\_\_\_\_ S.I.R. \_\_\_\_\_ DATE: 3/14/07

MOTION: FAVORABLE  AMENDED  WITHDRAWN:   
 NO MOTION  RE-REFER TO \_\_\_\_\_

	YEAS	NAYS	ABSTAIN/ EXCUSED	ABSENT
Maggie McIntosh, Chairman				
James F. Malone, Jr., Vice Chairman				
Rudolph L. Cane				
Elizabeth Bobo				
Anne Healey				
Paul S. Stull				
Anthony J. O'Donnell				
Doyle L. Niemann				
Joseph C. Boteler, III				
Tanya Thornton Shewell			EV	
Stephen W. Lafferty				
Pamela G. Beidle				
Saqib Ali				
Dana M. Stein				
Cheryl D. Glenn				
Tom Hucker				
Richard A. Sossi				
Michael H. Weir, Jr.			EV	
Barry Glassman			EV	
Jane Lawton				
Marvin Holmes				
Virginia Clagett				
Barbara Frush				
12 Affirmative Votes Needed To Pass				
TOTAL	19		3	

*Beverly A. Buchheit*  
COMMITTEE REPORTER