

SECTION 1. *Be it enacted by the General Assembly of Maryland,* That subsections (f) and (g) of Section 277 of Article 81 of the Annotated Code of Maryland (1965 Replacement Volume), title "Revenue and Taxes," subtitle "Recordation Tax," be and they are hereby repealed and re-enacted, with amendments, to read as follows:

277.

(f) Lease creating ground rent. In the case of a lease creating a perpetually renewable ground rent, the tax shall be based upon the capitalization at 6% of the annual ground rent, plus the actual consideration, other than the ground rent, paid or to be paid, *unless the same is executed and recorded simultaneously with a bona fide conveyance for full consideration of the reversionary estate thereby created, in which event such lease shall not be taxed.*

(g) Lease for term of years.

(1) *Of an interest real estate or chattels real.* In the case of a lease for a term of years, not perpetually renewable, the tax shall be based upon the capitalization at 10% of the average annual rental over the entire term of the lease, including any renewable term, plus the actual consideration, other than rent, paid or to be paid. **[**Where the average annual rental cannot be determined the tax shall be based upon the assessed value of the property covered by the lease.**]** *Where the average annual rental cannot be determined, the tax shall be based upon either (i) the minimum average annual rental ascertainable from the terms of the lease plus 5% thereof, the whole to be capitalized at 10%, plus the actual consideration, other than rent, paid or to be paid, or (ii) the assessed value of the property covered by the lease multiplied by one and one-half, whichever is the greater. The provisions of this section shall not apply to leases of personal property.*

(2) *Instruments substituting for lease.* No attornment agreement, memorandum of lease, assignment of lease or other instrument (referred to collectively herein as "other instrument") intended to publicize or giving or intended to give constructive notice of the existence of a lease which has not been recorded but which, if recorded, would be taxable hereunder, whether or not such other instrument gives such constructive notice in point of law, shall be received for recording until the original lease shall have been exhibited to the clerk and the tax paid thereon, in addition to whatever tax may be payable on such other instrument.

The tax on any such lease shall be chargeable to the lessee thereof and, in the event it shall be required to be advanced by the party offering for record such other instrument due to the failure or refusal of such lessee to pay the amount due to the clerk on demand by such party, then the amount thereof, plus interest from the date of payment, shall be recoverable by such party from the lessee by action at law.

Nothing in this subsection (2) shall be taken to apply to any lease not required by law to be recorded.

SEC. 2. *And be it further enacted,* That this Act shall take effect July 1, 1968.

Approved May 7, 1968.