

1 [Article 4, CHAPTER XX. \[5\]](#)

2 RESIDENTIAL GROUND RENT ACT.

3 **Drafting note: Existing Article 4 (§ 55-79.01 et seq.) of Chapter 4 of Title 55 is**
4 **relocated to proposed Chapter XX [5] within Part B (Other Tenancies) of Subtitle III**
5 **(Rental Conveyances) because it is a type of rental conveyance other than a residential**
6 **tenancy.**

7 § ~~55-79.01~~ [55.1-xxx](#). Definitions.

8 As used in this ~~article~~ [chapter](#):

9 ~~A.~~ "Land" is a three-dimensional concept and includes parcels with upper or lower
10 boundaries, or both upper and lower boundaries, as well as parcels extending ab solo usque ad
11 coelum. Parcels of airspace constitute land within the meaning of this ~~article~~ [chapter](#). Any
12 requirement in this ~~article~~ [chapter](#) of a legally sufficient description shall be deemed to include a
13 requirement that the upper and lower boundaries, if any, of the parcel in question be identified
14 with reference to established ~~datum~~ [data](#).

15 ~~B.~~ "Obligee" means [any person or entity to whom a residential ground rent is owed.](#)

16 ~~"Obligor" means one or more individuals who are obligated to pay a residential ground~~
17 ~~rent.~~

18 "Residential ground rent" means a rent or charge paid for the use of land, whether or not
19 title ~~thereto to such land~~ is transferred to the user, or a lease of land, for personal residential
20 purposes, (i) which is assignable by the obligor without the obligee's consent; (ii) which is for a
21 term in excess of ~~fifteen~~ [15](#) years, including any rights of renewal at the option of the obligor; (iii)
22 (iii) where the obligor has a present or future right to terminate such ground rent and to acquire
23 the entire interest of the obligee in the land by the payment of a determined or determinable
24 amount; and (iv) where the obligee's interest in the land is primarily a security interest to
25 protect his right to be paid the rent or charge.

26 ~~C.~~ "Obligor" means ~~one or more individuals who are obligated to pay a residential~~
27 ~~ground rent.~~

28 ~~D."Obligee" means any person or entity to whom a residential ground rent is owed.~~

29 **Drafting note: Existing definitions are reordered in alphabetical order, and**
30 **technical changes are made.**

31 § ~~55-79.02~~ 55.1-xxx. Form of instrument.

32 ~~In any case where~~ Any agreement in which a residential ground rent is created, ~~the~~
33 ~~agreement therefor~~ shall:

34 ~~(i)~~ 1. Be reduced to writing;

35 ~~(ii)~~ 2. Be in recordable form; and

36 ~~(iii)~~ 3. Disclose the date, the names of the parties, the ground rent and any future
37 adjustments to ~~it~~ the ground rent, when such rent is payable, the duration of the agreement, and
38 the value of the land at the time the agreement is made. If the parties ~~have so agreed, the~~
39 ~~agreement shall state~~ agree to the amount for which the ground rent may be redeemed, such
40 amount shall also be included in the agreement. Such agreement shall be included as a part of
41 the deed or other instrument of transfer.

42 **Drafting note: Language is updated for modern usage and technical changes are**
43 **made.**

44 § ~~55-79.03~~ 55.1-xxx. Changes in amount of rent.

45 The amount of a residential ground rent may be changed on demand of either the obligor
46 or obligee at the end of five years from the date of the agreement, and every five years
47 thereafter, by giving notice ~~in writing by registered mail~~ to the other party by certified mail or
48 overnight delivery using a commercial service or the United States Postal Service between ~~the~~
49 ~~ninetieth and sixtieth day~~ 90 and 60 days prior to such fifth anniversary. Unless the parties agree
50 otherwise, such change in ground rent shall not exceed the percentage change for the preceding
51 three years in the ~~General Average~~ Consumer Price Index for ~~All Items~~ all items, all urban
52 consumers (CPI-U), as published by the ~~United States Bureau of Labor Statistics of the U.S.~~
53 Department of Labor, ~~Bureau of Labor Statistics~~ or such other instrument or agency of the

54 United States or of ~~this~~ the Commonwealth as may be designated by the General Assembly. The
55 first of such years shall constitute the base year.

56 **Drafting note: The method of delivery is updated from "registered mail" to**
57 **"certified mail or overnight delivery" based on methods available in existing § 55-79.97.**
58 **The name of the relevant consumer price index is updated. Technical changes are made.**

59 § ~~55-79.04~~ 55.1-xxx. Encumbrance on real property.

60 A residential ground rent shall constitute a lien against the real estate from the time it is
61 recorded, ~~in a like manner as would a deed of trust or mortgage~~. Any deed of trust or mortgage
62 may provide that a default in payment of ground rent shall constitute a default in such deed of
63 trust or mortgage; ~~that the trustee or beneficiary~~ thereunder of the deed of trust or mortgage
64 may satisfy such obligation for rent, and that the money ~~so advanced~~ used to satisfy such
65 obligation, along with interest ~~thereon~~, shall be a part of the debt secured, to be repaid as
66 provided in § ~~55-59~~ 55.1-xxx et seq.

67 **Drafting note: Language is updated for modern usage.**

68 § ~~55-79.05~~ 55.1-xxx. Redemption rights.

69 The obligor shall have the right to redeem a residential ground rent at any time after
70 three years from the date ~~of~~ the ground rent agreement is made. The redemption shall be
71 effected for ~~such~~ the amount ~~as agreed upon by~~ the obligor and the obligee ~~may have agreed~~
72 ~~upon~~; or, in the absence of such an agreement, shall be determined by capitalizing the ground
73 rent in effect at the time of redemption, using the average rate on ~~long-term~~ long-term business
74 loans charged by commercial banks in the southeast, as published by the Federal Reserve Board.
75 Upon tender of such amount by the obligor, together with any lawfully collectible arrearages of
76 rent and interest thereon, the obligor may redeem the land from, and shall be entitled to a release
77 from, all obligation to pay ground rent. Such release shall be in recordable form and the cost of
78 recording the same, together with any other charges incidental to it, other than the state transfer
79 tax, shall be paid by the obligor.

80 **Drafting note: Technical changes.**

81 | § ~~55-79.06~~ 55.1-xxx. Incorporation of agreement into deed.

82 | A ground rent agreement, made pursuant to the provisions of this ~~article~~ chapter, may be
83 | incorporated into the deed or other instrument of transfer in the following form:

84 | This deed is subject to annual ground rent or charge as follows

85 | 1. Date of agreement:

86 | 2. Parties:

87 | Obligor—;

88 | Obligee—;

89 | 3. Ground rent and any future adjustments to it:

90 | 4. When payable:

91 | 5. Duration:

92 | 6. Original value of land:

93 | 7. Redemption price, if agreed on.

94 | **Drafting note: Technical changes.**

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