

SENATE BILL 623

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71r0864
CF HB 489

By: ~~Senator Gladden~~ Senators Gladden and Stone

Introduced and read first time: February 2, 2007

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 2007

CHAPTER _____

1 AN ACT concerning

2 **Ground Rents - Redemption**

3 FOR the purpose of repealing a certain waiting period for redeeming certain ground
4 rents; ~~requiring, before a voluntary transfer of a redeemable ground rent to a~~
5 ~~third party, that the landlord give the tenant notice of the tenant's right to~~
6 ~~redeem the ground rent and offer the tenant the opportunity to exercise the~~
7 ~~right; requiring the notice to contain certain information and to be given in a~~
8 ~~certain manner; establishing procedures for the tenant to exercise the right to~~
9 ~~redeem; requiring the transferee of a ground lease to notify the leasehold tenant~~
10 ~~of the transfer within a certain period of time after the transfer; requiring the~~
11 ~~notification to include certain information and to be sent to a certain address;~~
12 requiring a settlement agent, before settlement of a certain loan, to notify the
13 borrower of the right to redeem a redeemable ground rent and the redemption
14 amount; ~~requiring the Department of Housing and Community Development to~~
15 ~~study the feasibility of establishing or expanding a certain program to redeem~~
16 ~~certain ground rents and to report its findings to certain committees; defining~~
17 ~~certain terms; providing for the application of certain provisions of this Act; and~~
18 ~~generally relating to encouraging~~ the redemption of existing ground rents.

19 BY repealing and reenacting, with amendments,
20 Article – Real Property

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 Section 8–110
 2 Annotated Code of Maryland
 3 (2003 Replacement Volume and 2006 Supplement)

4 BY adding to
 5 Article – Real Property
 6 Section ~~8–110.1~~ 14–116.1 and 14–129
 7 Annotated Code of Maryland
 8 (2003 Replacement Volume and 2006 Supplement)

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

11 **Article – Real Property**

12 8–110.

13 (a) (1) This section does not apply to leases of property leased for
 14 business, commercial, manufacturing, mercantile, or industrial purposes or any other
 15 purpose which is not primarily residential, where the term of the lease, including all
 16 renewals provided for, does not exceed 99 years. A lease of the entire property
 17 improved or to be improved by any apartment, condominium, cooperative, or other
 18 building for multiple–family use on the property constitutes a business and not a
 19 residential purpose. The term “multiple–family use” does not apply to any duplex or
 20 single–family structure converted to a multiple–dwelling unit.

21 (2) Except as provided in subsection [(g)] (F) of this section, this
 22 section does not apply to irredeemable leases executed before April 9, 1884.

23 (3) This section does not apply to leases of the ground or site upon
 24 which dwellings or mobile homes are erected or placed in a mobile home development
 25 or mobile home park.

26 (b) (1) Except for apartment and cooperative leases, any reversion
 27 reserved in a lease for longer than 15 years is redeemable **AT ANY TIME**, at the option
 28 of the tenant, after 30 days’ notice to the landlord. Notice shall be given by certified
 29 mail, return receipt requested, and by first–class mail to the last known address of the
 30 landlord.

31 (2) The reversion is redeemable:

32 (i) For a sum equal to the annual rent reserved multiplied by:

1 1. 25, which is capitalization at 4 percent, if the lease
2 was executed from April 8, 1884 to April 5, 1888, both inclusive;

3 2. 8.33, which is capitalization at 12 percent, if the lease
4 was or is created after July 1, 1982; or

5 3. 16.66, which is capitalization at 6 percent, if the lease
6 was created at any other time;

7 (ii) For a lesser sum if specified in the lease; or

8 (iii) For a sum to which the parties may agree at the time of
9 redemption.

10 (c) [If the lease is executed on or after July 1, 1971, the reversion is
11 redeemable at the expiration of 3 years from the date of the lease. If the lease is
12 executed on or after July 1, 1982 or between July 1, 1969 and July 1, 1971, the
13 reversion is redeemable at the expiration of 5 years from the date of the lease. If the
14 lease is executed before July 1, 1969, the reversion is redeemable at any time.

15 (d)] If a tenant has power to redeem the reversion from a trustee or other
16 person who does not have a power of sale, the reversion nevertheless may be redeemed
17 in accordance with the procedures prescribed in the Maryland Rules.

18 [(e)] (D) Notwithstanding [subsections (b) and (c)] **SUBSECTION (B)** of this
19 section, any regulatory changes made by a federal agency, instrumentality, or
20 subsidiary, including the Department of Housing and Urban Development, the
21 Federal Housing Administration, the Government National Mortgage Association, the
22 Federal National Mortgage Association, and the Veterans' Administration, shall be
23 applicable to redemption of reversions of leases for longer than 15 years.

24 [(f)] (E) (1) Before the entry of a judgment foreclosing an owner's right
25 of redemption, a reversion in a ground rent or lease for 99 years renewable forever
26 held on abandoned property in Baltimore City, as defined in § 14-817 of the Tax –
27 Property Article, may be donated to Baltimore City or, at the option of Baltimore City,
28 to an entity designated by Baltimore City.

29 (2) Valuation of the donation of a reversionary interest pursuant to
30 this subsection shall be in accordance with subsection (b) of this section.

1 [(g)] (F) (1) (i) A tenant who has given the landlord notice in
2 accordance with subsection (b) of this section may apply to the State Department of
3 Assessments and Taxation to redeem a ground rent as provided in this subsection.

4 (ii) When the Mayor and City Council of Baltimore City
5 condemns property that is subject to an irredeemable ground rent, the City shall
6 become the tenant of the ground rent and, after giving the landlord notice in
7 accordance with subsection (b) of this section, may apply to the State Department of
8 Assessments and Taxation to extinguish the ground rent as provided in this
9 subsection.

10 (iii) When the Mayor and City Council of Baltimore City
11 condemns abandoned or distressed property that is subject to a redeemable ground
12 rent, the City shall become the tenant of the ground rent and, after giving the landlord
13 notice in accordance with subsection (b) of this section, may apply to the State
14 Department of Assessments and Taxation to redeem the ground rent as provided in
15 this subsection.

16 (2) The tenant shall provide to the State Department of Assessments
17 and Taxation:

18 (i) Documentation satisfactory to the Department of the lease
19 and the notice given to the landlord; and

20 (ii) Payment of a \$20 fee, and any expediting fee required under
21 § 1–203 of the Corporations and Associations Article.

22 (3) (i) On receipt of the items stated in paragraph (2) of this
23 subsection, the Department shall post notice on its website that application has been
24 made to redeem or extinguish the ground rent.

25 (ii) The notice shall remain posted for at least 90 days.

26 (4) Except as provided in paragraph (5) of this subsection, no earlier
27 than 90 days after the application has been posted as provided in paragraph (3) of this
28 subsection, a tenant seeking to redeem a ground rent shall provide to the Department:

29 (i) Payment of the redemption amount and up to 3 years' back
30 rent to the extent required under this section and § 8–111.1 of this subtitle, in a form
31 satisfactory to the Department; and

32 (ii) An affidavit made by the tenant, in the form adopted by the
33 Department, certifying that:

1 1. The tenant has not received a bill for ground rent due
2 or other communication from the landlord regarding the ground rent during the 3
3 years immediately before the filing of the documentation required for the issuance of a
4 redemption certificate under this subsection; or

5 2. The last payment for ground rent was made to the
6 landlord identified in the affidavit and sent to the same address where the notice
7 required under subsection (b) of this section was sent.

8 (5) No earlier than 90 days after the application has been posted as
9 provided in paragraph (3) of this subsection, a tenant seeking to extinguish an
10 irredeemable ground rent or to redeem a redeemable ground rent on abandoned or
11 distressed property that was acquired or is being acquired by the Mayor and City
12 Council of Baltimore through condemnation shall provide to the Department:

13 (i) Payment of up to 3 years' back rent to the extent required
14 under this section and § 8–111.1 of this subtitle, in a form satisfactory to the
15 Department; and

16 (ii) An affidavit made by the Director of the Office of Property
17 Acquisition and Relocation in the Baltimore City Department of Housing and
18 Community Development certifying that:

19 1. The property is abandoned property, as defined in §
20 21–17(a)(2) of the Public Local Laws of Baltimore City, or distressed property, as
21 defined in § 21–17(a)(3) of the Public Local Laws of Baltimore City;

22 2. The property was acquired or is being acquired by the
23 Mayor and City Council of Baltimore City through condemnation;

24 3. A thorough title search has been conducted;

25 4. The landlord of the property cannot be located or
26 identified; and

27 5. The existence of the ground rent is an impediment to
28 redevelopment of the site.

29 (6) At any time, the tenant may submit to the Department notice that
30 the tenant is no longer seeking redemption or extinguishment under this subsection.

1 (7) Upon receipt of the documentation, fees, and where applicable, the
2 redemption amount and 3 years' back rent to the extent required under this section
3 and § 8–111.1 of this subtitle, the Department shall issue to the tenant a ground rent
4 redemption certificate or a ground rent extinguishment certificate, as appropriate.

5 (8) The redemption or extinguishment of the ground rent is effective to
6 conclusively vest a fee simple title in the tenant, free and clear of any and all right,
7 title, or interest of the landlord, any lien of a creditor of the landlord, and any person
8 claiming by, through, or under the landlord when the tenant records the certificate in
9 the land records of the county in which the property is located.

10 (9) The landlord, any creditor of the landlord, or any other person
11 claiming by, through, or under the landlord may file a claim with the Department in
12 order to collect all, or any portion of, where applicable, the redemption amount and 3
13 years' back rent to the extent required under this section and § 8–111.1 of this
14 subtitle, without interest, by providing to the Department:

15 (i) Documentation satisfactory to the Department of the
16 claimant's interest; and

17 (ii) Payment of a \$20 fee, and any expediting fee required under
18 § 1–203 of the Corporations and Associations Article.

19 (10) (i) A landlord whose ground rent has been extinguished may
20 file a claim with the Baltimore City Director of Finance to collect an amount equal to
21 the annual rent reserved multiplied by 16.66, which is capitalization at 6 percent, by
22 providing to the Director:

23 1. Proof of payment to the landlord by the Department of
24 back rent under paragraph (9) of this subsection; and

25 2. Payment of a \$20 fee.

26 (ii) A landlord of abandoned or distressed property condemned
27 by the Mayor and City Council of Baltimore City whose ground rent has been
28 redeemed may file a claim with the Baltimore City Director of Finance to collect the
29 redemption amount, by providing to the Director:

30 1. Proof of payment to the landlord by the Department of
31 back rent under paragraph (9) of this subsection; and

32 2. Payment of a \$20 fee.

1 (11) (i) In the event of a dispute regarding the extinguishment
2 amount as calculated under paragraph (10)(i) of this subsection, the landlord may
3 refuse payment from the Baltimore City Director of Finance and file an appeal
4 regarding the valuation in the Circuit Court of Baltimore City.

5 (ii) In an appeal, the landlord is entitled to receive the fair
6 market value of the landlord's interest in the property at the time of the
7 extinguishment.

8 (12) In the event of a dispute regarding the payment by the
9 Department to any person of all or any portion of the collected redemption amount and
10 up to 3 years' back rent to the extent required by this section and § 8-111.1 of this
11 subtitle, the Department may:

12 (i) File an interpleader action in the circuit court of the county
13 where the property is located; or

14 (ii) Reimburse the landlord from the fund established in §
15 1-203.3 of the Corporations and Associations Article.

16 (13) The Department is not liable for any sum received by the
17 Department that exceeds the sum of:

18 (i) The redemption amount; and

19 (ii) Up to 3 years' back rent to the extent required by this
20 section and § 8-111.1 of this subtitle.

21 (14) The Department shall credit all fees and funds collected under this
22 subsection to the fund established under § 1-203.3 of the Corporations and
23 Associations Article. Redemption and extinguishment amounts received shall be held
24 in a ground rent redemption and ground rent extinguishment account in that fund.

25 (15) The Department shall maintain a list of properties for which
26 ground rents have been redeemed or extinguished under this subsection.

27 (16) The Department shall adopt regulations to carry out the provisions
28 of this subsection.

29 (17) Any redemption or extinguishment funds not collected by a
30 landlord under this subsection within 20 years after the date of the payment to the
31 Department by the tenant shall escheat to the State. The Department shall annually

1 transfer any funds that remain uncollected after 20 years to the State General Fund at
2 the end of each fiscal year.

3 ~~§ 110.1.~~

4 ~~(A) (1) BEFORE A VOLUNTARY TRANSFER OF A REDEEMABLE~~
5 ~~GROUND RENT TO A THIRD PARTY MAY OCCUR, THE LANDLORD SHALL GIVE THE~~
6 ~~TENANT NOTICE OF THE TENANT'S RIGHT TO REDEEM THE GROUND RENT~~
7 ~~UNDER § 8 110 OF THIS SUBTITLE AND OFFER THE TENANT THE OPPORTUNITY~~
8 ~~TO EXERCISE THE RIGHT TO REDEEM.~~

9 ~~(2) THE NOTICE SHALL STATE:~~

10 ~~(I) THE REDEMPTION AMOUNT CALCULATED IN~~
11 ~~ACCORDANCE WITH § 8 110(B)(2) OF THIS SUBTITLE; AND~~

12 ~~(II) SUBJECT TO § 8 111.1 OF THIS SUBTITLE, THE AMOUNT~~
13 ~~OF ANY BACK RENT DUE.~~

14 ~~(3) NOTICE SHALL BE GIVEN BY CERTIFIED MAIL, RETURN~~
15 ~~RECEIPT REQUESTED, AND BY FIRST CLASS MAIL TO THE LAST KNOWN~~
16 ~~ADDRESS OF THE TENANT AND, IF DIFFERENT, TO THE ADDRESS LISTED IN THE~~
17 ~~RECORDS OF THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.~~

18 ~~(B) (1) THE TENANT SHALL HAVE 30 DAYS AFTER THE DATE OF~~
19 ~~RECEIPT OF THE NOTICE TO NOTIFY THE LANDLORD OF THE TENANT'S INTENT~~
20 ~~TO EXERCISE THE RIGHT TO REDEEM.~~

21 ~~(2) IF THE TENANT DOES NOT RESPOND TO THE NOTICE OR~~
22 ~~NOTIFIES THE LANDLORD THAT THE TENANT WAIVES THE RIGHT TO REDEEM~~
23 ~~WITHIN 30 DAYS AFTER RECEIPT OF THE NOTICE, THE LANDLORD MAY~~
24 ~~PROCEED WITH THE TRANSFER OF THE GROUND RENT TO A THIRD PARTY.~~

25 ~~(C) (1) IF THE TENANT NOTIFIES THE LANDLORD WITHIN THE~~
26 ~~30 DAY PERIOD OF THE TENANT'S INTENT TO EXERCISE THE RIGHT TO REDEEM,~~
27 ~~THE TENANT SHALL HAVE AN ADDITIONAL 30 DAYS AFTER THE DATE OF~~
28 ~~MAILING THE NOTIFICATION TO THE LANDLORD TO TENDER THE REDEMPTION~~
29 ~~AMOUNT AND ANY BACK RENT DUE.~~

1 ~~(2) WITHIN 30 DAYS AFTER RECEIPT OF THE REDEMPTION~~
 2 ~~AMOUNT AND ANY BACK RENT DUE, THE LANDLORD SHALL PROVIDE TO THE~~
 3 ~~TENANT A DEED OF REDEMPTION OF GROUND RENT.~~

4 ~~(3) UNLESS THE LANDLORD AND THE TENANT AGREE TO A~~
 5 ~~LONGER TIME PERIOD, IF THE TENANT FAILS TO TENDER THE REDEMPTION~~
 6 ~~AMOUNT AND ANY BACK RENT DUE WITHIN 30 DAYS AFTER THE DATE OF~~
 7 ~~MAILING THE NOTIFICATION OF INTENT TO REDEEM TO THE LANDLORD, THE~~
 8 ~~TENANT SHALL BE DEEMED TO HAVE WAIVED THE RIGHT TO REDEEM AND THE~~
 9 ~~LANDLORD MAY PROCEED WITH THE TRANSFER OF THE GROUND RENT TO A~~
 10 ~~THIRD PARTY.~~

11 14-116.1.

12 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
 13 MEANINGS INDICATED.

14 (2) "GROUND LEASE" MEANS A RESIDENTIAL LEASE OR
 15 SUBLEASE FOR A TERM OF YEARS RENEWABLE FOREVER SUBJECT TO THE
 16 PAYMENT OF A PERIODIC GROUND RENT.

17 (3) (I) "GROUND LEASE HOLDER" MEANS THE HOLDER OF THE
 18 REVERSIONARY INTEREST UNDER A GROUND LEASE.

19 (II) "GROUND LEASE HOLDER" INCLUDES AN AGENT OF THE
 20 GROUND LEASE HOLDER.

21 (4) "GROUND RENT" MEANS A RENT ISSUING OUT OF, OR
 22 COLLECTIBLE IN CONNECTION WITH, THE REVERSIONARY INTEREST UNDER A
 23 GROUND LEASE.

24 (5) "LEASEHOLD TENANT" MEANS THE HOLDER OF THE
 25 LEASEHOLD INTEREST UNDER A GROUND LEASE.

26 (6) "REDEEMABLE GROUND RENT" MEANS A GROUND RENT THAT
 27 MAY BE REDEEMED IN ACCORDANCE WITH § 8-110 OF THIS ARTICLE.

28 (B) (1) THIS SECTION APPLIES TO RESIDENTIAL PROPERTY THAT IS
 29 OR WAS USED, INTENDED TO BE USED, OR AUTHORIZED TO BE USED FOR FOUR
 30 OR FEWER DWELLING UNITS.

1 **(2) THIS SECTION DOES NOT APPLY TO PROPERTY:**

2 **(I) LEASED FOR BUSINESS, COMMERCIAL,**
3 **MANUFACTURING, MERCANTILE, OR INDUSTRIAL PURPOSES, OR ANY OTHER**
4 **PURPOSE THAT IS NOT PRIMARILY RESIDENTIAL;**

5 **(II) IMPROVED OR TO BE IMPROVED BY ANY APARTMENT,**
6 **CONDOMINIUM, COOPERATIVE, OR OTHER BUILDING FOR MULTIFAMILY USE OF**
7 **GREATER THAN FOUR DWELLING UNITS; OR**

8 **(III) LEASED FOR DWELLINGS OR MOBILE HOMES THAT ARE**
9 **ERECTED OR PLACED IN A MOBILE HOME DEVELOPMENT OR MOBILE HOME**
10 **PARK.**

11 **(C) WITHIN 30 DAYS AFTER ANY TRANSFER OF A GROUND LEASE, THE**
12 **TRANSFeree SHALL NOTIFY THE LEASEHOLD TENANT OF THE TRANSFER.**

13 **(D) (1) THE NOTIFICATION SHALL INCLUDE THE NAME AND ADDRESS**
14 **OF THE NEW GROUND LEASE HOLDER AND THE DATE OF THE TRANSFER.**

15 **(2) IF THE PROPERTY IS SUBJECT TO A REDEEMABLE GROUND**
16 **RENT, THE NOTIFICATION SHALL ALSO INCLUDE THE FOLLOWING NOTICE:**

17 **“AS THE OWNER OF THE PROPERTY SUBJECT TO THIS GROUND LEASE,**
18 **YOU ARE ENTITLED TO REDEEM, OR PURCHASE, THE GROUND LEASE FROM THE**
19 **GROUND LEASE HOLDER AND OBTAIN ABSOLUTE OWNERSHIP OF THE**
20 **PROPERTY. THE REDEMPTION AMOUNT IS FIXED BY LAW BUT MAY ALSO BE**
21 **NEGOTIATED WITH THE GROUND LEASE HOLDER FOR A DIFFERENT AMOUNT.**
22 **FOR INFORMATION ON REDEEMING THE GROUND LEASE, CONTACT THE**
23 **GROUND LEASE HOLDER.”**

24 **(E) A GROUND LEASE HOLDER SHALL SEND NOTICE UNDER THIS**
25 **SECTION TO THE LAST KNOWN ADDRESS OF THE LEASEHOLD TENANT.**

26 **14-129.**

27 **(A) THIS SECTION DOES NOT APPLY TO A:**

28 **(1) HOME EQUITY LINE OF CREDIT;**

1 **(2) LOAN SECURED BY AN INDEMNITY DEED OF TRUST; OR**

2 **(3) COMMERCIAL LOAN.**

3 **(B) BEFORE THE SETTLEMENT OF A LOAN SECURED BY A MORTGAGE OR**
 4 **DEED OF TRUST ON RESIDENTIAL REAL PROPERTY IMPROVED BY FOUR OR**
 5 **FEWER SINGLE-FAMILY UNITS THAT IS SUBJECT TO A REDEEMABLE GROUND**
 6 **RENT, THE SETTLEMENT AGENT SHALL NOTIFY THE BORROWER ~~OF THAT~~:**

7 **(1) THE BORROWER HAS THE RIGHT TO REDEEM THE GROUND**
 8 **RENT UNDER § 8-110 OF THIS ARTICLE; ~~AND~~**

9 **(2) THE REDEMPTION AMOUNT ~~CALCULATED UNDER § 8-110(B)~~**
 10 **~~OF THIS ARTICLE~~ IS FIXED BY LAW BUT MAY ALSO BE NEGOTIATED WITH THE**
 11 **GROUND LEASE HOLDER FOR A DIFFERENT AMOUNT;**

12 **(3) IT MAY BE POSSIBLE TO INCLUDE THE AMOUNT OF THE**
 13 **REDEMPTION IN THIS LOAN;**

14 **(4) FOR INFORMATION ON REDEEMING THE GROUND RENT, THE**
 15 **BORROWER SHOULD CONTACT THE GROUND LEASE HOLDER; AND**

16 **(5) FOR INFORMATION ON INCLUDING THE AMOUNT OF THE**
 17 **REDEMPTION IN THIS LOAN, THE BORROWER SHOULD CONTACT THE LENDER**
 18 **OR CREDIT GRANTOR MAKING THIS LOAN.**

19 ~~SECTION 2. AND BE IT FURTHER ENACTED, That the Department of~~
 20 ~~Housing and Community Development shall study the feasibility of establishing a loan~~
 21 ~~program, or expanding an existing program, to assist families of limited income who~~
 22 ~~own homes subject to redeemable ground rents to redeem those ground rents, and~~
 23 ~~report its findings and the estimated cost of the program to the House Environmental~~
 24 ~~Matters Committee, the Senate Judicial Proceedings Committee, and the Senate~~
 25 ~~Education, Health, and Environmental Affairs Committee on or before December 1,~~
 26 ~~2008.~~

27 SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take
 28 effect July 1, 2007.