
To: Members of The Senate Judicial Proceedings Committee

From: William A. O’Connell, Real Property Section Legislative Chair

Date: February 25, 2020

Subject: Senate Bill 806 - Real Property - Redemption or Extinguishment of Ground Rents

Position: Oppose

The Maryland State Bar Association (MSBA) Real Property Section **opposes Senate Bill 806 - Real Property - Redemption or Extinguishment of Ground Rents**. This bill apparently seeks to “clarify” or “simplify” existing law but will only serve to confuse and disrupt well settled practices and law.

The Maryland State Department of Assessments and Taxation provides a method whereby a homeowner (a “leasehold tenant”) may apply for and obtain ownership of the ground rent obligation that the homeowner is required to pay under a traditional Maryland, “99-year lease.” Section 8-804 (f) of the Real Property Article provides that, in certain cases where the owner of the ground rent (the “ground lease holder”) is unknown, unlocatable or not responsive, the homeowner may receive a “certificate of redemption” that, upon recordation in the land records, results in the homeowner owning the home without having to pay ground rent any more. In order to receive such a certificate the homeowner must follow the procedures provided by the law, make the requisite application to the Department, wait out the applicable waiting period and pay the Department the required amount to redeem the ground rent.

HB1182 would substantially revise the law regarding the ownership rights that the homeowner receives by virtue of the Department’s redemption certificate. Existing law provides that upon recording, the redemption certificate vests “a fee simple title in the leasehold tenant, free and clear of any and all right, title, or interest of the ground lease holder, any lien of a creditor of the ground lease holder, and any person claiming by, through, or under the ground lease holder...” We feel that this language succinctly describes the intention of existing law and is highly protective for the homeowner.

This bill would revise the above language to state that recording the redemption certificate would “merge the reversion into the title, and eliminate” any and all right, title, or interest of the ground

lease holder, any lien of a creditor of the ground lease holder, and any person claiming by, through, or under the ground lease holder.

This text would attempt to statutorily merge the homeowner's ground rent, even if such were not legally possible, appropriate or intended. For example, it is technically not possible to merge the ground rent with the leasehold interest if the home is already subject to a mortgage. Doing so may be construed to give the ground rent title as security under the existing mortgage, which would not have been intended by the homeowner and/or mortgage lender. (Upon refinance or sale, the ground rent would be merged for the buyer or new lender, which would be the normal intentions of those parties.)

Additionally, we feel the inclusion of the word "eliminate" to describe the ground lease holder's interest would potentially, unintentionally, mean that the homeowner did not receive the ground rent interest, in that it was "eliminated." Given existing law is well settled and protects the interests of the homeowner, we cannot envision a need for SB 806. For these reasons we **oppose SB 806** and request that you issue an **unfavorable** report.

Should you have any questions, please contact The MSBA's Legislative Office at (410)-269-6464 / (410)-685-7878 ext: 3066 or at Richard@MSBA.org and Parker@MSBA.org