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Judicial Proceedings Committee



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

March 7th, 2024

The Maryland State Senate Judicial Proceedings Committee
The Honorable William C. Smith, Jr.
2 East Miller Senate Building
Annapolis, Maryland 21401

Re: Senate Bill 901: *Ground Leases – Application for Redemption – Procedures*

Dear Chairman Smith and members of the Committee,

Ground rents were a 19th Century way of making it easier for a person to buy residential property. The person could pay a lower price for the home but would have to pay a semi-annual ground rent for an indefinite period of time, thus providing the original owner with cash up front as well as semi-annual income for the sale of the property. Today, we finance home purchases through bank loans secured by mortgages and deeds of trust, a far better system than ground rents. But lots of ground rents still are in existence, mostly on row houses in Baltimore City.

In recent years, the General Assembly has enacted legislation which has transformed the State's system of ground rents. As a result, Subtitle 7 of Title 8 of the Real Property Article requires all ground lease holders to register their ground leases with the State Department of Assessments and Taxation, and Section 8-707 specifically provides that if a ground lease is not registered, the holder of the ground lease may not collect any ground rent payments or bring an action against the leasehold tenant to enforce any rights the ground lease holder may have under the ground lease.

Notwithstanding these recent reforms, there are still a lot of outstanding unregistered ground rents, and in many of these cases, the current leasehold tenant (the occupant of the residence) has no idea who is the current holder of the ground lease.

Subtitle 8 of Title 8 of the Real Property Article mostly deals with the redemptions of ground rents. Over the years, the General Assembly has passed various measures to make it easier for leasehold tenants under the ground rent system to pay off (or redeem) their ground rents and thus get out from under the semi-annual payment obligation. These measures are codified in Title 8.

Generally speaking, the redemption system works well. For remaining unregistered ground rents,

however, the system is flawed. Senate Bill 901 would make it possible for purchasers of real property subject to an unregistered ground rent, to redeem it. Because there is no way to know who holds the ground rent if it is unregistered, the only way for the leasehold tenant to redeem the ground rent is through an interaction with the State Department of Assessments and Taxation. But under current law, in order to avail himself of the SDAT redemption process, the leasehold tenant must state under oath that the leasehold tenant sent a notice to the ground rent holder. If the leasehold tenant doesn't know who owns the ground rent, such a notice is not possible.

There is another problem with the current statute. It requires the leasehold tenant to affirm that the ground rent hasn't been paid in three years and further requires the leasehold tenant to deposit three years worth of unpaid rent with SDAT. So this sets up a mandatory three year delay in redemptions. A further problem is that under the ground rent registration system, a holder of an *unregistered* ground rent is not allowed to collect rent! So the three years worth of rent deposited with SDAT cannot be paid to the unregistered holder of the ground rent.

So how does SB 901 fix these problems. It eliminates the required notice by the leasehold tenant to the holder of an unregistered ground rent and eliminates the required payment of three years back rent to SDAT by the leasehold tenant.

I appreciate the Committee's consideration of Senate Bill 901 and will be happy to answer any questions the Committee may have.