

Department of Legislative Services
 Maryland General Assembly
 2003 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 655

(Senator Klausmeier)

Judicial Proceedings

Environmental Matters

Real Property - Redemption of Ground Rents

This bill provides an alternative method for redemption of a ground lease by a tenant through submission of documentation to the State Department of Assessments and Taxation (SDAT) if specified criteria are met.

The bill is effective January 1, 2004.

Fiscal Summary

State Effect: Special fund revenues from fees collected by SDAT would increase by approximately \$8,000 in FY 2004 and approximately \$16,000 thereafter. General fund revenues could increase beginning in FY 2004 as discussed below. Expenditures would not be affected.

(in dollars)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
SF Revenue	\$8,000	\$16,000	\$16,000	\$16,000	\$16,000
Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	\$8,000	\$16,000	\$16,000	\$16,000	\$16,000

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Background: Generally, “ground rent” is paid to the owner of land for the use of the property for a long-term (e.g., 99 years) lease with the lessor retaining title to the land,

commonly called a “ground lease.” The lease creates a leasehold estate in the lessee and is commonly renewable. Redemption is a statutorily created right by which a tenant may obtain fee simple title to the property by paying a fee to the landowner.

Bill Summary: A tenant redeeming a ground lease must provide to SDAT: (1) satisfactory documentation of the lease and the notice given to the landlord; and (2) payment of a \$20 fee, along with any fee for expedited processing. After receiving these, SDAT must post notice of the application on its web site for at least 90 days.

After the notice has been posted for at least 90 days, the tenant must provide to SDAT: (1) payment of the redemption amount and up to three years’ back rent; and (2) an affidavit that the tenant has not received a bill for ground rent due or other communication from the landlord in the past three years or that the last payment was sent to the same address where the notice was sent.

Upon receipt of the required documentation, fees, redemption amount, and back rent, SDAT must issue a ground rent redemption certificate to the tenant. The redemption vests fee simple title in the tenant when the tenant records the certificate in the county land records.

The landlord, any of the landlord’s creditors, or any other person claiming under the landlord may collect the redemption amount, without interest, by providing SDAT with satisfactory documentation of the claimant’s interest and payment of a \$20 fee, along with any fee for expedited processing.

The bill requires the notice that a tenant redeeming a lease must give to the landlord be done by certified mail, return receipt requested, and by first class mail to the last known address of the landlord.

In the event of a dispute over SDAT’s payment of the redemption amount and back rent, SDAT may file an interpleader action or reimburse the landlord from the special fund used to pay redemption amounts. SDAT’s liability is limited to the redemption amount and any back rent.

All fees and money collected must be deposited into SDAT’s expedited processing fund. SDAT must maintain a list of properties whose leases have been redeemed under the bill. Any money not collected by a landlord within 20 years after the tenant’s payment date escheats to the State. Any such money goes to the general fund.

The bill establishes a \$50 fee for expedited processing of a ground rent certificate.

Current Law: Generally, except for apartment and cooperative leases, any reversion reserved in a lease for longer than 15 years is redeemable, at the option of the tenant, after one month's notice to the landlord for a sum equal to the annual rent reserved multiplied by: (1) 25 (capitalization at 4%) if the lease was executed from April 8, 1884 to April 5, 1888; (2) 8.33 (capitalization at 12%) if the lease was or is created after July 1, 1982; or (3) 16.66 (capitalization at 6%) if the lease was created at any other time. The reversion may also be redeemed for a lesser sum specified in the lease or for a sum to which the parties agree at the time of redemption.

If the lease was executed on or after July 1, 1971 but before July 1, 1982, the reversion is redeemable three years after the date of the lease. If the lease is executed on or after July 1, 1982 or between July 1, 1969 and July 1, 1971, the reversion is redeemable five years after the date of the lease. If the lease was executed before July 1, 1969, the reversion is redeemable at any time.

If a tenant has a power to redeem the reversion from a trustee or other person who does not have a power of sale, the reversion may still be redeemed under the Maryland Rules.

These provisions do not apply to leases whose purpose is not primarily residential where the term of the lease, including all renewals, does not exceed 99 years. A lease of an entire property for multiple-family use (e.g. apartment, condominium, cooperative) constitutes a business and not a residential purpose under these provisions.

SDAT retains the fees received for expedited processing of documents filed in a special fund. Money in the fund helps to pay the budget for SDAT's Charter Unit, which accepts corporate and other filings.

State Revenues: Many properties in Baltimore City and several in Baltimore County and Anne Arundel County are subject to ground leases. It is estimated that 100 of these ground leases would be redeemed in fiscal 2004 based on the bill's effective date and that approximately 200 such leases would be redeemed annually under the bill thereafter because the bill would make redemption easier when the landlord cannot be located. It is further estimated that approximately half of former property owners would actually collect the redemption amounts in any given year. It is assumed that those redeeming the leases would pay the additional \$50 charge for expedited processing and that those collecting the capitalized amounts would not pay the additional charge. Based on these assumptions, special fund revenues from fees collected by SDAT would increase by approximately \$8,000 in fiscal 2004 and approximately \$16,000 annually thereafter.

The average ground rent is approximately \$100 annually. The capitalized amount for rents redeemed under the bill would probably be calculated by using the 16.66 multiplier. Based on this and on the assumption that approximately half of the former property

owners would never collect their redemption amounts, general fund revenues from ground rents that escheat to the State would increase by approximately \$41,650 in fiscal 2024 and approximately \$83,300 annually thereafter.

Additional Information

Prior Introductions: None.

Cross File: HB 1030 (Delegate Weir, *et al.*) – Environmental Matters.

Information Source(s): State Department of Assessments and Taxation, Office of the Attorney General, Department of Legislative Services

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