

SENATE BILL 748

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2004 Regular Session  
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By: **Senator McFadden (By Request - Baltimore City Administration)**

Introduced and read first time: February 6, 2004

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City - Extinguishment of Ground Rents**

3 FOR the purpose of authorizing the Mayor and City Council of Baltimore City to  
4 apply to the State Department of Assessments and Taxation to extinguish a  
5 ground rent on certain property under certain circumstances; requiring a tenant  
6 seeking to extinguish a ground rent to give certain notice to the landlord;  
7 requiring a tenant seeking to extinguish a ground rent to make a certain  
8 application and pay certain fees to the Department; requiring the Department to  
9 post a certain notice on its website regarding an extinguishment application  
10 under certain circumstances; requiring the tenant to pay certain back rent and  
11 provide a certain affidavit to the Department under certain circumstances;  
12 requiring the Department to issue to the tenant a ground rent extinguishment  
13 certificate under certain circumstances; providing that the extinguishment of a  
14 ground rent is effective to conclusively vest a fee simple title in the tenant;  
15 authorizing a landlord whose ground rent has been extinguished to file a certain  
16 claim with a certain Baltimore City unit of government to collect certain  
17 amounts under certain circumstances; authorizing a landlord whose ground rent  
18 has been extinguished to file an appeal regarding the valuation of the  
19 extinguishment amount under certain circumstances; requiring the Department  
20 to hold extinguishment amounts received in a certain account in a certain fund;  
21 requiring the Department to maintain a list of properties for which ground rents  
22 have been extinguished; requiring extinguishment amounts not collected by a  
23 landlord after a certain number of years to escheat to the State; authorizing the  
24 recordation of a ground rent extinguishment certificate; and generally relating  
25 to the extinguishment of ground rents in Baltimore City.

26 BY repealing and reenacting, without amendments,  
27 The Public Local Laws of Baltimore City  
28 Section 21-17(a)  
29 Article 4 - Public Local Laws of Maryland  
30 (1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)  
31 (As enacted by Chapter 429 of the Acts of the General Assembly of 2003)

32 BY repealing and reenacting, without amendments,

1 Article - Corporations and Associations  
 2 Section 1-203(a)  
 3 Annotated Code of Maryland  
 4 (1999 Replacement Volume and 2003 Supplement)

5 BY repealing and reenacting, with amendments,  
 6 Article - Corporations and Associations  
 7 Section 1-203(b)(8) and 1-203.3  
 8 Annotated Code of Maryland  
 9 (1999 Replacement Volume and 2003 Supplement)

10 BY repealing and reenacting, with amendments,  
 11 Article - Real Property  
 12 Section 3-102(a) and 8-110  
 13 Annotated Code of Maryland  
 14 (2003 Replacement Volume and 2003 Supplement)

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

17 **Article 4 - Baltimore City**

18 21-17.

19 (a) (1) In this section the following words have the meanings indicated.

20 (2) "Abandoned property" means:

21 (i) an unoccupied structure or vacant lot on which taxes are in  
 22 arrears for at least 2 years;

23 (ii) a building:

24 1. that is unoccupied by owner or tenant;

25 2. that is unfit for habitation;

26 3. that has deteriorated to the point where:

27 A. the building is structurally unsound; or

28 B. the cost of rehabilitation significantly exceeds the post  
 29 rehabilitation market value; and

30 4. regarding which the owner has been issued a violation  
 31 notice from the City requiring the owner to:

1 A. rehabilitate the building to conform to minimum code  
2 habitability requirements; or

3 B. demolish the building for health and safety reasons;

4 (iii) a vacant lot on which a building has been demolished: or

5 (iv) any building in a block of row houses where the block:

6 1. as a whole contains 70% abandoned property as defined  
7 under subparagraph (i), (ii), or (iii) of this paragraph; and

8 2. is determined by the City to require a whole-block remedy,  
9 provided that any tenant or owner-occupant has been offered assistance in  
10 accordance with subsection (1) of this section.

11 (3) "Distressed property" means a parcel of real property that is subject  
12 to a tax lien or liens with a lien or liens to value ratio equal to or greater than 15%, as  
13 determined by the Baltimore City Department of Housing and Community  
14 Development, and that:

15 (i) contains a dwelling unit or other structure that:

16 1. has deteriorated to the extent that the dwelling unit or  
17 other structure constitutes a serious and growing menace to the public health, safety,  
18 and welfare; and

19 2. is subject, under the building code of Baltimore City or the  
20 housing code of Baltimore City, to an expired violation notice and order to correct the  
21 deteriorated conditions; or

22 (ii) is subject to a lien or liens in an amount greater than \$1000 for  
23 work done by the Baltimore City Department of Housing and Community  
24 Development.

25 **Article - Corporations and Associations**

26 1-203.

27 (a) In addition to any organization and capitalization fee required under §  
28 1-204 of this article, the Department shall collect the following fees:

29 (b) (8) For processing each of the following documents on an expedited basis,  
30 the additional fee is as indicated:

31 Recording any document, including financing statements ..... \$50

32 Certificate of status of a corporation, partnership, limited partnership, limited  
33 liability partnership, or limited liability company, or a name reservation ..... \$20

34 A copy of any document recorded or filed with the Department, or a corporate

1 abstract ..... \$20

2 Application for a ground rent redemption OR A GROUND RENT EXTINGUISHMENT, or  
 3 payment of a redemption OR EXTINGUISHMENT amount to the former owner of the  
 4 ground rent ..... \$50

5 1-203.3.

6 (a) There is a continuing, nonlapsing fund that is not subject to § 7-302 of the  
 7 State Finance and Procurement Article.

8 (b) Subject to the appropriation process in the State budget, the Department  
 9 shall use the fund:

10 (1) For the costs of reviewing, processing, and auditing documents filed  
 11 or requested under this article or other articles of the Code; and

12 (2) To pay redemption OR EXTINGUISHMENT amounts to former owners  
 13 of ground rents redeemed OR EXTINGUISHED in accordance with § 8-110 of the Real  
 14 Property Article.

15 (c) The State Treasurer shall hold and the State Comptroller shall account for  
 16 the fund.

17 (d) The fund shall be invested and reinvested in the same manner as other  
 18 State funds.

19 (e) Investment earnings shall accrue to the benefit of the fund.

20

#### **Article - Real Property**

21 3-102.

22 (a) (1) Any other instrument affecting property, including any contract for  
 23 the grant of property, or any subordination agreement establishing priorities between  
 24 interests in property may be recorded.

25 (2) The following instruments also may be recorded:

26 (i) Any notice of deferred property footage assessment for street  
 27 construction;

28 (ii) Any boundary survey plat signed and sealed by a professional  
 29 land surveyor or property line surveyor licensed in the State;

30 (iii) Any assumption agreement by which a person agrees to assume  
 31 the liability of a debt or other obligation secured by a mortgage or deed of trust;

32 (iv) Any release of personal liability of a borrower or guarantor  
 33 under a mortgage or under a note or other obligation secured by a deed of trust; or

1 (v) A ground rent redemption certificate OR A GROUND RENT  
2 EXTINGUISHMENT CERTIFICATE issued under § 8-110 of this article.

3 (3) The recording of any instrument constitutes constructive notice from  
4 the date of recording.

5 8-110.

6 (a) (1) This section does not apply to leases of property leased for business,  
7 commercial, manufacturing, mercantile, or industrial purposes or any other purpose  
8 which is not primarily residential, where the term of the lease, including all renewals  
9 provided for, does not exceed 99 years. A lease of the entire property improved or to be  
10 improved by any apartment, condominium, cooperative, or other building for  
11 multiple-family use on the property constitutes a business and not a residential  
12 purpose. The term "multiple-family use" does not apply to any duplex or  
13 single-family structure converted to a multiple-dwelling unit.

14 (2) [This] EXCEPT AS PROVIDED IN SUBSECTION (G) OF THIS SECTION,  
15 THIS section does not apply to irredeemable leases executed before April 9, 1884.

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

19 (b) (1) Except for apartment and cooperative leases, any reversion reserved  
20 in a lease for longer than 15 years is redeemable, at the option of the tenant, after 30  
21 days' notice to the landlord. Notice shall be given by certified mail, return receipt  
22 requested, and by first-class mail to the last known address of the landlord.

23 (2) The reversion is redeemable:

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

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

27 2. 8.33, which is capitalization at 12 percent, if the lease was  
28 or is created after July 1, 1982; or

29 3. 16.66, which is capitalization at 6 percent, if the lease was  
30 created at any other time;

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

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

34 (c) If the lease is executed on or after July 1, 1971, the reversion is  
35 redeemable at the expiration of 3 years from the date of the lease. If the lease is  
36 executed on or after July 1, 1982 or between July 1, 1969 and July 1, 1971, the

1 reversion is redeemable at the expiration of 5 years from the date of the lease. If the  
2 lease is executed before July 1, 1969, the reversion is redeemable at any time.

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

6 (e) Notwithstanding subsections (b) and (c) of this section, any regulatory  
7 changes made by a federal agency, instrumentality, or subsidiary, including the  
8 Department of Housing and Urban Development, the Federal Housing  
9 Administration, the Government National Mortgage Association, the Federal  
10 National Mortgage Association, and the Veterans' Administration, shall be applicable  
11 to redemption of reversions of leases for longer than 15 years.

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

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

19 (g) (1) (I) A tenant who has given the landlord notice in accordance with  
20 subsection (b) of this section may apply to the State Department of Assessments and  
21 Taxation to redeem a ground rent as provided in this subsection.

22 (II) WHEN THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY  
23 CONDEMN PROPERTY THAT IS SUBJECT TO AN IRREDEEMABLE GROUND RENT, THE  
24 CITY SHALL BECOME THE TENANT OF THE GROUND RENT AND, AFTER GIVING THE  
25 LANDLORD NOTICE IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION, MAY  
26 APPLY TO THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION TO  
27 EXTINGUISH THE GROUND RENT AS PROVIDED IN THIS SUBSECTION.

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

30 (i) Documentation satisfactory to the Department of the lease and  
31 the notice given to the landlord; and

32 (ii) Payment of a \$20 fee, and any expediting fee required under §  
33 1-203 of the Corporations and Associations Article.

34 (3) (i) On receipt of the items stated in paragraph (2) of this  
35 subsection, the Department shall post notice on its website that application has been  
36 made to redeem OR EXTINGUISH the ground rent.

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

1 (4) No earlier than 90 days after the application has been posted as  
2 provided in paragraph (3) of this subsection, [the] A tenant SEEKING TO REDEEM A  
3 GROUND RENT shall provide to the Department:

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

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

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

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

16 (5) NO EARLIER THAN 90 DAYS AFTER THE APPLICATION HAS BEEN  
17 POSTED AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A TENANT SEEKING  
18 TO EXTINGUISH AN IRREDEEMABLE GROUND RENT SHALL PROVIDE TO THE  
19 DEPARTMENT:

20 (I) PAYMENT OF UP TO 3 YEARS' BACK RENT TO THE EXTENT  
21 REQUIRED UNDER THIS SECTION AND § 8-111.1 OF THIS SUBTITLE, IN A FORM  
22 SATISFACTORY TO THE DEPARTMENT; AND

23 (II) AN AFFIDAVIT MADE BY THE DIRECTOR OF THE OFFICE OF  
24 PROPERTY ACQUISITION AND RELOCATION IN THE BALTIMORE CITY DEPARTMENT  
25 OF HOUSING AND COMMUNITY DEVELOPMENT CERTIFYING THAT:

26 1. THE PROPERTY IS ABANDONED PROPERTY, AS DEFINED IN  
27 § 21-17(A)(2) OF THE PUBLIC LOCAL LAWS OF BALTIMORE CITY, OR DISTRESSED  
28 PROPERTY, AS DEFINED IN § 21-17(A)(3) OF THE PUBLIC LOCAL LAWS OF BALTIMORE  
29 CITY;

30 2. THE PROPERTY WAS ACQUIRED OR IS BEING ACQUIRED  
31 BY THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY THROUGH CONDEMNATION;

32 3. A THOROUGH TITLE SEARCH HAS BEEN CONDUCTED;

33 4. THE LANDLORD OF THE PROPERTY CANNOT BE LOCATED  
34 OR IDENTIFIED; AND

35 5. THE EXISTENCE OF THE GROUND RENT IS AN  
36 IMPEDIMENT TO REDEVELOPMENT OF THE SITE.

1            [(5)]    (6)    At any time, the tenant may submit to the Department notice  
2 that the tenant is no longer seeking redemption OR EXTINGUISHMENT under this  
3 subsection.

4            [(6)]    (7)    Upon receipt of the documentation, fees, and WHERE  
5 APPLICABLE, THE redemption amount and 3 years' back rent to the extent required  
6 under this section and § 8-111.1 of this subtitle, the Department shall issue TO THE  
7 TENANT a ground rent redemption certificate [to the tenant] OR A GROUND RENT  
8 EXTINGUISHMENT CERTIFICATE, AS APPROPRIATE.

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

14           [(8)]    (9)    The landlord, any creditor of the landlord, or any other person  
15 claiming by, through, or under the landlord may file a claim with the Department in  
16 order to collect all, or any portion of, WHERE APPLICABLE, the redemption amount  
17 and 3 years' back rent to the extent required under this section and § 8-111.1 of this  
18 subtitle, without interest, by providing to the Department:

19                    (i)    Documentation satisfactory to the Department of the claimant's  
20 interest; and

21                    (ii)    Payment of a \$20 fee, and any expediting fee required under §  
22 1-203 of the Corporations and Associations Article.

23            (10)    A LANDLORD WHOSE GROUND RENT HAS BEEN EXTINGUISHED MAY  
24 FILE A CLAIM WITH THE BALTIMORE CITY DIRECTOR OF FINANCE TO COLLECT AN  
25 AMOUNT EQUAL TO THE ANNUAL RENT RESERVED MULTIPLIED BY 16.66, WHICH IS  
26 CAPITALIZATION AT 6 PERCENT, BY PROVIDING TO THE DIRECTOR:

27                    (I)    PROOF OF PAYMENT TO THE LANDLORD BY THE DEPARTMENT  
28 OF BACK RENT UNDER PARAGRAPH (9) OF THIS SUBSECTION; AND

29                    (II)    PAYMENT OF A \$20 FEE.

30            (11)    IN THE EVENT OF A DISPUTE REGARDING THE EXTINGUISHMENT  
31 AMOUNT AS CALCULATED UNDER PARAGRAPH (10) OF THIS SUBSECTION, THE  
32 LANDLORD MAY REFUSE PAYMENT FROM THE BALTIMORE CITY DIRECTOR OF  
33 FINANCE AND FILE AN APPEAL REGARDING THE VALUATION IN THE CIRCUIT COURT  
34 OF BALTIMORE CITY.

35            [(9)]    (12)    In the event of a dispute regarding the payment by the  
36 Department to any person of all or any portion of the collected redemption amount  
37 and up to 3 years' back rent to the extent required by this section and § 8-111.1 of this  
38 subtitle, the Department may:

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

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

5 [(10)] (13) The Department is not liable for any sum received by the  
6 Department that exceeds the sum of:

7 (i) The redemption amount; and

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

10 [(11)] (14) The Department shall credit all fees and funds collected under  
11 this subsection to the fund established under § 1-203.3 of the Corporations and  
12 Associations Article. Redemption AND EXTINGUISHMENT amounts received shall be  
13 held in a ground rent redemption AND GROUND RENT EXTINGUISHMENT account in  
14 that fund.

15 [(12)] (15) The Department shall maintain a list of properties for which  
16 ground rents have been redeemed OR EXTINGUISHED under this subsection.

17 [(13)] (16) The Department shall adopt regulations to carry out the  
18 provisions of this subsection.

19 [(14)] (17) Any REDEMPTION OR EXTINGUISHMENT funds not collected by  
20 a landlord under this subsection within 20 years after the date of the payment to the  
21 Department by the tenant shall escheat to the State. The Department shall annually  
22 transfer any funds that remain uncollected after 20 years to the State General Fund  
23 at the end of each fiscal year.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 October 1, 2004.