

SENATE BILL 748

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2004 Regular Session
4r1945
CF 4r1946

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

Introduced and read first time: February 6, 2004

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 18, 2004

CHAPTER _____

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; providing that a landlord
20 is entitled to receive a certain amount on appeal; requiring the Department to
21 hold extinguishment amounts received in a certain account in a certain fund;
22 requiring the Department to maintain a list of properties for which ground rents
23 have been extinguished; requiring extinguishment amounts not collected by a
24 landlord after a certain number of years to escheat to the State; authorizing the
25 recordation of a ground rent extinguishment certificate; and generally relating
26 to the extinguishment of ground rents in Baltimore City.

27 BY repealing and reenacting, without amendments,

1 The Public Local Laws of Baltimore City
 2 Section 21-17(a)
 3 Article 4 - Public Local Laws of Maryland
 4 (1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)
 5 (As enacted by Chapter 429 of the Acts of the General Assembly of 2003)

6 BY repealing and reenacting, without amendments,
 7 Article - Corporations and Associations
 8 Section 1-203(a)
 9 Annotated Code of Maryland
 10 (1999 Replacement Volume and 2003 Supplement)

11 BY repealing and reenacting, with amendments,
 12 Article - Corporations and Associations
 13 Section 1-203(b)(8) and 1-203.3
 14 Annotated Code of Maryland
 15 (1999 Replacement Volume and 2003 Supplement)

16 BY repealing and reenacting, with amendments,
 17 Article - Real Property
 18 Section 3-102(a) and 8-110
 19 Annotated Code of Maryland
 20 (2003 Replacement Volume and 2003 Supplement)

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

23 **Article 4 - Baltimore City**

24 21-17.

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

26 (2) "Abandoned property" means:

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

29 (ii) a building:

30 1. that is unoccupied by owner or tenant;

31 2. that is unfit for habitation;

32 3. that has deteriorated to the point where:

33 A. the building is structurally unsound; or

1 B. the cost of rehabilitation significantly exceeds the post
2 rehabilitation market value; and

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

5 A. rehabilitate the building to conform to minimum code
6 habitability requirements; or

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

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

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

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

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

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

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

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

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

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

29 **Article - Corporations and Associations**

30 1-203.

31 (a) In addition to any organization and capitalization fee required under §
32 1-204 of this article, the Department shall collect the following fees:

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

- 1 Recording any document, including financing statements \$50
- 2 Certificate of status of a corporation, partnership, limited partnership, limited
 3 liability partnership, or limited liability company, or a name reservation \$20
- 4 A copy of any document recorded or filed with the Department, or a corporate
 5 abstract \$20
- 6 Application for a ground rent redemption OR A GROUND RENT EXTINGUISHMENT, or
 7 payment of a redemption OR EXTINGUISHMENT amount to the former owner of the
 8 ground rent \$50
- 9 1-203.3.

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

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

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

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

19 (c) The State Treasurer shall hold and the State Comptroller shall account for
 20 the fund.

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

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

24 **Article - Real Property**

25 3-102.

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

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

30 (i) Any notice of deferred property footage assessment for street
 31 construction;

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

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

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

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

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

9 8-110.

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

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

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

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

27 (2) The reversion is redeemable:

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

29 1. 25, which is capitalization at 4 percent, if the lease was
30 executed from April 8, 1884 to April 5, 1888, both inclusive;

31 2. 8.33, which is capitalization at 12 percent, if the lease was
32 or is created after July 1, 1982; or

33 3. 16.66, which is capitalization at 6 percent, if the lease was
34 created at any other time;

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

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

3 (c) If the lease is executed on or after July 1, 1971, the reversion is
4 redeemable at the expiration of 3 years from the date of the lease. If the lease is
5 executed on or after July 1, 1982 or between July 1, 1969 and July 1, 1971, the
6 reversion is redeemable at the expiration of 5 years from the date of the lease. If the
7 lease is executed before July 1, 1969, the reversion is redeemable at any time.

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

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

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

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

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

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

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

35 (i) Documentation satisfactory to the Department of the lease and
36 the notice given to the landlord; and

37 (ii) Payment of a \$20 fee, and any expediting fee required under §
38 1-203 of the Corporations and Associations Article.

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

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

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

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

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

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

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

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

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

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

30 1. THE PROPERTY IS ABANDONED PROPERTY, AS DEFINED IN
31 § 21-17(A)(2) OF THE PUBLIC LOCAL LAWS OF BALTIMORE CITY, OR DISTRESSED
32 PROPERTY, AS DEFINED IN § 21-17(A)(3) OF THE PUBLIC LOCAL LAWS OF BALTIMORE
33 CITY;

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

36 3. A THOROUGH TITLE SEARCH HAS BEEN CONDUCTED;

1 4. THE LANDLORD OF THE PROPERTY CANNOT BE LOCATED
2 OR IDENTIFIED; AND

3 5. THE EXISTENCE OF THE GROUND RENT IS AN
4 IMPEDIMENT TO REDEVELOPMENT OF THE SITE.

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

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

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

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

23 (i) Documentation satisfactory to the Department of the claimant's
24 interest; and

25 (ii) Payment of a \$20 fee, and any expediting fee required under §
26 1-203 of the Corporations and Associations Article.

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

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

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

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

1 (II) IN AN APPEAL, THE LANDLORD IS ENTITLED TO RECEIVE THE
2 FAIR MARKET VALUE OF THE LANDLORD'S INTEREST IN THE PROPERTY AT THE TIME
3 OF THE EXTINGUISHMENT.

4 [(9)] (12) In the event of a dispute regarding the payment by the
5 Department to any person of all or any portion of the collected redemption amount
6 and up to 3 years' back rent to the extent required by this section and § 8-111.1 of this
7 subtitle, the Department may:

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

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

12 [(10)] (13) The Department is not liable for any sum received by the
13 Department that exceeds the sum of:

14 (i) The redemption amount; and

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

17 [(11)] (14) The Department shall credit all fees and funds collected under
18 this subsection to the fund established under § 1-203.3 of the Corporations and
19 Associations Article. Redemption AND EXTINGUISHMENT amounts received shall be
20 held in a ground rent redemption AND GROUND RENT EXTINGUISHMENT account in
21 that fund.

22 [(12)] (15) The Department shall maintain a list of properties for which
23 ground rents have been redeemed OR EXTINGUISHED under this subsection.

24 [(13)] (16) The Department shall adopt regulations to carry out the
25 provisions of this subsection.

26 [(14)] (17) Any REDEMPTION OR EXTINGUISHMENT funds not collected by
27 a landlord under this subsection within 20 years after the date of the payment to the
28 Department by the tenant shall escheat to the State. The Department shall annually
29 transfer any funds that remain uncollected after 20 years to the State General Fund
30 at the end of each fiscal year.

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

