

Department of Legislative Services
 Maryland General Assembly
 2004 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 748

(Senator McFadden)

(By Request – Baltimore City Administration)

Judicial Proceedings

Environmental Matters

Baltimore City - Extinguishment of Ground Rents

This bill authorizes Baltimore City to extinguish an irredeemable ground rent by condemning the property subject to the lease and extinguishing the ground rent.

Fiscal Summary

State Effect: Special fund revenues from fees collected by the State Department of Assessments and Taxation (SDAT) would increase by approximately \$5,600 in FY 2005 and approximately \$7,500 annually thereafter. General fund revenues could increase beginning in FY 2025 as discussed below. Expenditures would not be affected.

(in dollars)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
SF Revenue	\$5,600	\$7,500	\$7,500	\$7,500	\$7,500
Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	\$5,600	\$7,500	\$7,500	\$7,500	\$7,500

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

Local Effect: Baltimore City could save up to \$75,000 annually in redevelopment costs from ground rents extinguished under the bill.

Small Business Effect: None.

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: The bill provides that when the Mayor and City Council of Baltimore City condemn property subject to an irredeemable ground rent (technically a lease), the city becomes the tenant and, after giving the landlord notice as required for the alternative method of redeeming the ground rent, may apply to SDAT to extinguish the ground rent.

After notice has been posted on SDAT's web site for at least 90 days, the city must pay to SDAT up to three years' back rent in a form satisfactory to SDAT. The city must also provide to SDAT an affidavit by the Director of the Office of Property Acquisition and Relocation in the Baltimore City Department of Housing and Community Development certifying that: (1) the property is abandoned property or distressed property; (2) the property is being acquired through condemnation; (3) a thorough title search has been conducted; (4) the landlord cannot be located or identified; and (5) the existence of the ground rent is an impediment to redevelopment of the site.

Upon receiving the rent and affidavit, SDAT must issue a ground rent extinguishment certificate to the city. Extinguishment vests fee simple title in the city when the certificate is recorded in the land records.

A landlord whose ground rent has been extinguished may file a claim with the Baltimore City Director of Finance to collect an amount equal to the annual rent reserved multiplied by 16.66 (capitalization at 6%) by providing the director with: (1) proof of payment of back rent to the landlord by SDAT; and (2) payment of a \$20 fee. In the event of a dispute regarding the extinguishment amount, the landlord may refuse payment and file an appeal of the valuation in the Baltimore City Circuit Court. In an appeal, the landlord is entitled to receive the fair market value of the extinguished interest in the property.

Ground rent paid by the city to SDAT is deposited in the account for ground lease redemptions in SDAT's expedited processing fund. Money not collected by a landlord within 20 years after payment to SDAT escheats to the State.

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

Current Law: Generally, when property is taken for a public purpose through the power of eminent domain, the taking is accomplished through a condemnation action in court against the property owner. Baltimore City is authorized to exercise the condemnation power. In a condemnation action, title vests in the condemning entity.

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 a factor determined by when the lease was entered into. 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.

Chapter 464 of 2003 established an alternative method for redemption of a ground rent (technically a lease) by a tenant through submission of documentation to SDAT if specified criteria similar to those in the bill are met.

State Fiscal Effect: It is assumed that the bill would only apply to irredeemable leases (irredeemable ground rents) executed prior to April 9, 1884. Many properties that are slated for redevelopment in Baltimore City are subject to these ground rents. It is further assumed that because of the time since the execution of the ground rent, few, if any, owners would come forward to file a claim for back rent. It is estimated that 112 of these ground rents would be extinguished in fiscal 2005, based on the bill's effective date, and that approximately 150 ground rents would be extinguished annually under the bill thereafter. It is assumed that the city would opt for expedited processing and pay the \$50 fee. Based on these estimates and assumptions, special fund revenues from fees collected by SDAT would increase by approximately \$5,600 in fiscal 2005 and approximately \$7,500 annually thereafter.

The average ground rent is approximately \$100 annually. The capitalized amount for rents redeemed under the bill would be calculated by using the 16.66 multiplier. Based on the assumption that no former property owners would collect their redemption amounts, general fund revenues from ground rents that escheat to the State would increase by approximately \$46,650 in fiscal 2025 and approximately \$62,475 annually thereafter for at least the following four fiscal years.

Local Fiscal Effect: Baltimore City would be required to pay SDAT up to three years' back rent, and a \$50 fee if the city opts for expedited processing, for each ground rent extinguished under the bill. The city estimates that it will use this method for several redevelopment projects, involving up to 150 properties per year over the next five years. The number of ground rents extinguished beyond that cannot be accurately estimated. The city would opt for extinguishment of the ground rent under the bill because it would cost the city less to do so than it would to condemn the property. Even after paying the fees and back rent, it is estimated that the city could save up to \$500 on each lot redeveloped because of the condemnation costs that would be foregone, including court costs, extended title searches, and other associated costs. Based on these estimates, the city could save up to \$75,000 annually in redevelopment costs under the bill.

Additional Information

Prior Introductions: None.

Cross File: HB 1087 (Delegate Marriott, *et al.*) (By Request – Baltimore City Administration) – Environmental Matters.

Information Source(s): State Department of Assessments and Taxation, Baltimore City, Department of Legislative Services

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