

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 322 (Senator McFadden) (By Request – Baltimore City Administration)
Judicial Proceedings Environmental Matters

**Baltimore City - Redemption of Ground Rents - Abandoned or Distressed
Property**

This bill provides that when Baltimore City condemns abandoned or distressed property that is subject to a redeemable ground rent, the city becomes the tenant of the ground rent. The bill authorizes the city, as the tenant of a redeemable ground rent, to redeem a redeemable ground rent on abandoned or distressed property that was acquired or is being acquired by the city through condemnation by following the same process provided for extinguishing an irredeemable ground rent. A landlord of abandoned or distressed property condemned by the city whose ground rent has been redeemed may file a claim with the Baltimore City Director of Finance to collect the redemption amount, by providing the director: (1) proof that the landlord has been paid back rent by the State Department of Assessments and Taxation (SDAT); and (2) payment of a \$20 fee.

The bill takes effect June 1, 2005.

Fiscal Summary

State Effect: General fund revenues could decrease by approximately \$560,000 beginning in FY 2026. Expenditures would not be affected.

Local Effect: Baltimore City could save up to \$560,000 annually in redevelopment cost from ground rents redeemed 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.

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 are met. The tenant must pay the statutory redemption amount plus three years’ back rent to SDAT.

Chapter 480 of 2004 provides that when Baltimore City condemns property subject to an irredeemable ground rent, 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 rent redemptions in SDAT's expedited processing fund. Money not collected by a landlord within 20 years after payment to SDAT escheats to the State.

Local Fiscal Effect: Many abandoned or distressed properties that are slated for redevelopment in Baltimore City are subject to redeemable ground rents, including the East Baltimore Development Initiative. The successors in interest for most of the original landlords cannot be located, so the city would redeem the properties through the alternative method using SDAT.

It is estimated that the city would redeem approximately 350 ground rents under the bill annually beginning in fiscal 2006. The average ground rent is approximately \$100 annually. The average redemption amount for a ground rent is approximately \$1,600. Currently, the city must pay \$300 in back rent plus the \$1,600 redemption amount to SDAT, which is deposited into the account for ground rent redemptions in SDAT's expedited processing fund. Under the bill, the city would not be required to pay the \$1,600 redemption amount to SDAT. Based on these facts and assumptions, the city could save approximately \$560,000 annually in redevelopment costs beginning in fiscal 2006.

State Revenues: It is assumed that very few, if any, landlords would claim the amounts owed to them and that almost all, if not all of the money in SDAT's ground rent redemption account would escheat to the State in 20 years. Because Baltimore City would no longer pay the redemption amount to SDAT, general fund revenues could decrease by approximately \$560,000 annually beginning in fiscal 2026.

Additional Information

Prior Introductions: None.

Cross File: HB 1374 (Delegate Marriott) (By Request – Baltimore City Administration) – Judicial Proceedings.

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

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Analysis by: T. Ryan Wilson

Direct Inquiries to:
(410) 946-5510
(301) 970-5510