

Department of Legislative Services  
Maryland General Assembly  
2007 Session

FISCAL AND POLICY NOTE

Senate Bill 289  
Judicial Proceedings

(Senator Kelley)

---

Ground Rents - Ejectment Actions - Posting Notice on Property

---

This bill requires in a landlord, in an ejectment action based on past due ground rent, to post notice on the property in accordance with the Maryland Rules. Personal service *and* posting notice in accordance with the Maryland Rules stand in the place of a demand and reentry.

---

Fiscal Summary

**State Effect:** The bill would not directly affect State finances or operations.

**Local Effect:** Baltimore City could experience minimal savings related to ground rents charged on properties owned by the city.

**Small Business Effect:** Minimal.

---

Analysis

**Current Law:** For property subject to a ground rent, a landlord may bring an action for possession of the property 45 days after sending a bill for the ground rent by certified mail, return receipt requested, to the tenant's last known address when • at least six months ground rent is in arrears; and • the landlord has the right to reenter for nonpayment of the rent. If the tenant cannot be personally served or there is no tenant in actual possession of the property, service may be made by posting notice on the property as prescribed under the Maryland Rules. Personal service *or* posting in accordance with the Maryland Rules stands in the place of a demand and reentry.

When posting notice is authorized under the Maryland Rules, the notice must be posted in a conspicuous place on the land.

**Background:** While ground rents are recognized in other states, Maryland's system is unique. In Maryland, a ground rent creates a leasehold estate in the grantee. The leasehold estate is personal – not real – property. The grantor retains a reversion in the ground rent property and the fee simple title to the land. Ground rents generally have a 99-year term and renew perpetually. Ground rent is paid to the grantor (the ground rent holder) for the use of the property for the term of the lease in annual or semi-annual installments. Under a typical ground rent contract, the tenant agreed to pay all fees, taxes, and other costs associated with ownership of the property.

Ground rents have been a form of property holding in Maryland since colonial times, with some of the earliest known leases dating to 1750. The purpose of these ground rents was to produce income for their grantors. Most ground rents in colonial times required the tenant to erect improvements on the property. Maryland's unique system of ground rents can be traced to wording in its colonial charter from Charles I that prohibited certain feudal tenures, specifically those that would reserve a rent in a grantor who has transferred fee simple title. The 99-year lease was devised to reserve a ground rent without violating Maryland's colonial charter.

Prior to 1884, a ground rent could be redeemable or irredeemable by the terms of the lease. A redeemable ground rent would state the terms under which the tenant could redeem the lease and take fee simple ownership of the property. Generally, a tenant cannot take fee simple ownership of an irredeemable ground rent. When the General Assembly prohibited the creation of irredeemable ground rents beginning April 9, 1884, the General Assembly also established a method of calculating the redemption value.

Chapter 464 of 2003 established an alternative method for redeeming a ground rent if the tenant is unable to locate the ground rent holder, which had become a problem with some of the older ground rents. Under this method, the tenant must submit specified documentation and pay associated fees to the State Department of Assessments and Taxation (SDAT).

In the twentieth century, developers used ground rents as part of their overall business strategy. Properties subject to ground rent could reduce the purchase price to a homebuyer, who might then be better able to afford a mortgage. In the earlier part of the century, a developer would sell houses in a development and retain the ground rent as a steady long-term income source. Later in the century, developers began securitizing and selling the ground rents to finance further developments. Many of these ground rents were held by institutional investors who saw them as long-term, low-risk investments.

Recent newspaper accounts noted a sharp increase in the number of ejectment actions filed in the Circuit Court for Baltimore City during the last five years.

According to estimates from Baltimore City and SDAT, properties subject to ground rents are concentrated mostly in Baltimore City (74,085), with some properties located in Anne Arundel (5,000), Baltimore (35,705), Harford (1,500), Howard (200), Talbot (10), and Worcester (250) counties. SDAT advises that new ground rents have recently been created.

Baltimore City has identified 234,943 separate properties in the city, of which 214,604 have been transferred since 1982. City records indicate that 74,085 of the properties transferred have a ground rent. Of the properties transferred with a ground rent, 67,861 were residential properties with one to four dwelling units.

**Local Fiscal Effect:** Baltimore City advises that it pays approximately \$36,275 annually in ground rent on 722 properties in a database maintained by its housing department. The city has expressed concern that it may be liable for ground rent on an additional 1,800 properties for which it has not received a bill. Baltimore City could experience savings to the extent the bill • lowers expenses paid by the city relating to a ground rent action; and • keeps actions from being brought in the first place. Any such savings cannot be accurately estimated but are assumed to be minimal.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State Department of Assessments and Taxation, Judiciary (Administrative Office of the Courts), Baltimore County, Anne Arundel County, Baltimore City, Department of Legislative Services

**Fiscal Note History:** First Reader - February 25, 2007  
mll/jr

---

Analysis by: T. Ryan Wilson

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