

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 1034 (Delegate Conaway)
Environmental Matters

Real Property - Contract for Sale - Notice of Option to Redeem Ground Rent

This bill requires a contract for the sale of real property subject to a redeemable ground rent to contain a provision notifying the buyer of the option to redeem the ground rent for a specified sum. The bill does not apply to a jurisdiction in the State where, based on the 2000 Decennial Census, less than 60% of the population lives in owner-occupied dwellings and the median income is less than \$40,000 per year.

Fiscal Summary

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

Local Effect: The bill does not directly affect local finances or operations.

Small Business Effect: None.

Analysis

Bill Summary: A contract for sale of real property subject to a redeemable ground rent must contain a provision that notifies the buyer of the option to redeem the ground rent, as specified in current law, for:

- an amount equal to the annual rent multiplied by:
 - 25, which is capitalization at 4%, if the lease was executed from April 8, 1884 to April 5, 1888;
 - 8.33, which is capitalization at 12%, if the lease was executed after July 1, 1982; or

- 16.66, which is capitalization at 6%, if the lease was executed at any other time;
- a lesser sum, if specified in the lease; or
- a sum to which the parties may agree at the time of redemption.

Current Law: A contract for the sale of real property subject to a ground lease must contain notice of the existence of the ground rent as well as notice that, if the ground rent is not paid in a timely fashion, the effect may be that the reversionary owner (ground rent holder) may bring an action for possession. Thus, as a result, the reversionary owner may own the property in fee simple, discharged from the lease.

Chapter 291 of 2007 repealed the provision that established a waiting period before a ground rent may be redeemed. Within 30 days after any transfer of a ground lease, the transferee must notify the leasehold tenant of the transfer. The notification is required to include the name and address of the new ground lease holder and the transfer date. If the property is subject to a redeemable ground rent, the notification has to also include a specified notice about the right to redeem the ground rent.

Additionally, before the settlement of a loan secured by a mortgage or deed of trust on residential property improved by four or fewer single-family units that is subject to a redeemable ground rent, the settlement agent must notify the borrower that the borrower has a right to redeem the ground rent.

Background: According to the 2000 Decennial Census, Baltimore City and Garrett, Kent, Prince George's, Somerset, and Worcester counties are the local jurisdictions that had a homeownership rate below 60%. However, of those jurisdictions, only Baltimore City and Garrett, Somerset, and Worcester counties also had a median household income below \$40,000 at the time of the 2000 Decennial Census. Thus, it appears that the bill does not apply in Baltimore City or Garrett, Somerset, and Worcester counties. However, properties subject to ground rents are concentrated in Baltimore City. Worcester County also has some properties subject to ground rents.

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 agrees to pay all fees, taxes, and other costs associated with ownership of the property.

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.

Additional Information

Prior Introductions: An identical bill was introduced in the 2007 session as HB 84. The bill was referred to the House Environmental Matters Committee but was subsequently withdrawn.

Cross File: None.

Information Source(s): Office of the Attorney General, Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - March 11, 2009
mlm/kdm

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