

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 1006 (Delegate V. Clagett, *et al.*)
Environmental Matters

Real Property - Community Land Trusts

This bill exempts community land trusts from existing prohibitions on the creation of new ground leases and subleases. Any ground lease of which a community land trust (CLT) is the lessor may not require the payment of a periodic ground rent.

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: Potential minimal.

Analysis

Bill Summary: Under the bill, a CLT is defined as a 501(c) tax-exempt nonprofit organization or a State or local government agency that provides affordable housing to low-income and moderate-income individuals. The bill exempts CLTs from the prohibition on new ground leases or subleases on residential property with four or fewer dwelling units that went into effect January 22, 2007, and from statutory provisions regarding the conversion of irredeemable ground rents to redeemable ground rents.

The bill further exempts a residential lease of which a CLT is the lessor from the statutory right of redemption if the lease (1) grants the CLT a preemptive right to purchase the lessee's interest in the property, or any improvements on the property if separately conveyed; or (2) contains language restricting the transfer, sublease, or assignment of the property with regard to potential transferees and the price at which the

property may be transferred. A provision in a ground lease or ground sublease that indemnifies the lessor or sublessor for the payment of property taxes, assessments, utilities, or other costs that, in the absence of the ground lease, would have otherwise been charged to a leasehold tenant if the property were held in fee simple is:

- not considered to be subjecting the property to a periodic ground rent; and
- fully enforceable under applicable law.

The right to obtain a lien for the nonpayment of a ground rent also applies to the nonpayment of a ground lease holder indemnity. If the property of the CLT subject to a lien is sold at a foreclosure sale, the bill allows for the payment of the sale proceeds to the ground lease holder and for the purchaser to take title subject to the ground lease.

Current Law: Chapter 1 of 2007 prohibited the creation of new residential ground rents. The owner of a fee simple or leasehold estate in residential property that is used, intended to be used, or authorized to be used for four or fewer dwelling units may not create a reversionary interest in the property under a ground lease or sublease for a term of years renewable forever subject to the payment of a periodic ground rent. Property that is leased for commercial, industrial, or mobile home parks is excluded.

Background: The State does not currently administer initiatives dedicated to CLTs in urban areas. According to the Institute for Community Economics, a CLT is a democratically controlled nonprofit organization that owns and acquires real estate in order to provide benefits to its local community and to make land and housing available to residents who cannot otherwise afford them. According to the Planning Commissioner's Journal, CLTs generally have in place "limited equity" policies that restrict the resale price of the housing in order to maintain its long-term affordability. These features of the CLT model provide homeownership opportunities to people who might otherwise be left out of the market. There are currently two CLTs in Maryland, the Charm City Land Trust in Baltimore and the Gateway Community Development Corporation of Mt. Rainier.

Additional Information

Prior Introductions: None.

Cross File: SB 929 (Senator Raskin, *et al.*) - Judicial Proceedings.

Information Source(s): Institute for Community Economics, Planning Commissioner's Journal, Office of the Attorney General (Consumer Protection Division), Judiciary (Administrative Office of the Courts), Secretary of State, Department of Legislative Services

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

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