

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 838

(Delegate McIntosh)(By Request - Baltimore City
Administration)

Environment and Transportation

Judicial Proceedings

Baltimore City - Residential Ground Leases - Abandoned Property

This bill prohibits a ground lease holder from bringing any suit, action, or proceeding against the current leasehold tenant to recover ground rent that was due from a former leasehold tenant before the date that the current leasehold tenant acquired title to a property subject to a residential ground lease, if the property is (1) owned or acquired by the current leasehold tenant by any means and (2) abandoned property as defined in the Public Local Laws of Baltimore City. The bill clarifies that, for any property subject to such a limitation (as well as an existing limitation related to distressed property as defined in the Public Local Laws of Baltimore City) on recovery of past-due ground rent, the ground lease holder may request in writing that the current leasehold tenant acquire the reversionary interest under the ground lease for the established market value, as specified.

Fiscal Summary

State Effect: None. The bill does not affect State operations or finances.

Local Effect: Baltimore City expenditures for the payment of past-due ground rent on abandoned properties acquired by the city decrease due to the bill's prohibition; however, a specific estimate of the impact is not available at this time. Revenues are not affected.

Small Business Effect: Potential meaningful. Revenues for small businesses that hold ground leases may be reduced as the businesses are unable to recover past-due ground rent when a property meets the definition of abandoned property.

Analysis

Current Law:

Limitation on Recovery of Past-due Ground Rent

Notwithstanding any other provision of law, in any suit, action, or proceeding to recover past-due ground rent, a ground lease holder may only recover up to three years' past-due ground rent if the property is (1) owned or acquired by the Mayor and City Council of Baltimore by any means and (2) abandoned or distressed property, as defined in the Public Local Laws of Baltimore City. The three-year period is calculated from the date a specified notice required before filing an action for possession was sent by the ground lease holder.

For any property subject to the limitation on recovery of past-due ground rent, a ground lease holder may request in writing that the Mayor and City Council of Baltimore acquire the reversionary interest under the ground lease for the market value established at the time of the acquisition by the Mayor and City Council of the leasehold interest under the ground lease.

Public Local Laws of Baltimore City

In Baltimore City, “abandoned property” means:

- an unoccupied structure or vacant lot on which taxes are in arrears for at least two years;
- a building (1) that is unoccupied; (2) that is unfit for habitation; (3) that has deteriorated to the point where the building is structurally unsound or the cost of repair significantly exceeds the post-repair market value; and (4) where the owner has been issued a violation notice from the city requiring the owner to repair the building to specified standards or demolish the building for health and safety reasons;
- a vacant lot on which a building has been demolished; or
- any building in a block of row houses where the block (1) contains 70% abandoned property and (2) is determined by the city to require a whole-block remedy, as long as any tenant or owner-occupant has been offered specified assistance.

“Distressed property” means real property that is subject to a tax lien where the lien is equal to or greater than 15% of the value of the property, as determined by the Baltimore City Department of Housing and Community Development, and that:

- contains a dwelling unit or structure that (1) has deteriorated to the point that the structure is a serious risk to the public health, safety, and welfare and (2) is subject to an expired violation notice and order to correct the deteriorated conditions; or
- is subject to a lien greater than \$1,000 for work done by the Baltimore City Department of Housing and Community Development.

Background: Ground leases have been a form of property holding in Maryland since colonial times. A ground lease creates a leasehold estate in the grantee that is personal – not real – property. The grantor retains a reversion in the ground lease property and fee simple title to the land. Ground leases generally have a 99-year term and are renewable perpetually. Ground rent is paid to the grantor (the ground lease holder) for the use of the property for the term of the lease in annual or semi-annual installments. Under a typical ground lease contract, the tenant agrees to pay all fees, taxes, and other costs associated with ownership of the property.

As of January 5, 2017, there were 90,811 ground leases registered with the State Department of Assessments and Taxation (SDAT). According to the registry maintained by SDAT, ground leases are concentrated mostly in Baltimore City (61,317), with other properties located in Anne Arundel (3,684), Baltimore (25,355), Carroll (11), Cecil (1), Charles (1), Harford (173), Howard (59), Montgomery (5), Prince George’s (44), and Worcester (161) counties.

Local Expenditures: Baltimore City advises that, on average, it is sued 12 times per year to recover past-due ground rent on properties owned or acquired by the city. The specific number of properties owned by the city that are subject to ground leases was not available for inclusion in this analysis. Baltimore City further advises that it is not aware of a single instance where the city acquired a property subject to a ground lease that met the definition of distressed property and did not also meet the definition of abandoned property. As a result, the bill effectively prohibits recovery of past-due ground rent on properties owned or acquired by the Mayor and City Council.

Additional Information

Prior Introductions: None.

Cross File: Although designated as a cross file, SB 487 (Senator McFadden, *et al.* – By Request – Baltimore City Administration – Judicial Proceedings) is not identical.

Information Source(s): Baltimore City; Judiciary (Administrative Office of the Courts); State Department of Assessments and Taxation; Department of Legislative Services

Fiscal Note History: First Reader - March 14, 2017
md/kdm Third Reader - April 10, 2017
Revised - Amendment(s) - April 10, 2017

Analysis by: Nathan W. McCurdy

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