

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 91 (Delegate Holmes)

Environment and Transportation

Judicial Proceedings

Irredeemable Ground Rents – Notice and Filing Requirements

This bill requires the online registry for ground rents currently maintained by the State Department of Assessments and Taxation (SDAT) to also (1) identify each property for which a renewal notice to preserve the irredeemability of an irredeemable ground lease has been filed and (2) include a clear notation of the expiration date for each renewal notice. In addition, the bill expands requirements to preserve irredeemability by requiring the holder of an irredeemable ground rent to *file with SDAT* (1) a renewal notice of intention to preserve irredeemability by April 1, 2023, and (2) subsequent renewal notices within three months after the date of a renewal notice’s recordation in the land records. Provisions related to recording renewal notices of intention to preserve irredeemability in the land records are unchanged.

Fiscal Summary

State Effect: SDAT can handle the bill’s requirements using existing budgeted resources. Revenues are not affected.

Local Effect: The bill is not anticipated to materially affect local operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law: Generally, 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 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 semiannual installments.

Under a typical ground lease contract, the tenant agrees to pay all fees, taxes, and other costs associated with ownership of the property.

An irredeemable ground rent is a ground rent created under a ground lease executed before April 9, 1884, that does not contain a provision allowing the leasehold tenant to redeem the ground rent. Statutory provisions authorize any ground lease holder of an irredeemable ground rent to record a notice of intention to preserve irredeemability in the land records.

However, to preserve a ground rent's irredeemability, a notice of the intention must have been recorded by December 31, 2010. If the notice was not recorded by that date, the ground rent became redeemable. If a notice was recorded by December 31, 2010, the ground rent remained irredeemable for 10 years, through December 31, 2020. The effectiveness of that notice lapsed on January 1, 2021, unless a renewal notice was recorded within six months before the notice expired. Subsequent renewal notices lapse after 10 years, unless another renewal notice is recorded within six months before expiration. If a notice lapses, the ground rent becomes redeemable.

There is no requirement to file a renewal notice of intention with SDAT.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Anne Arundel County; Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); State Department of Assessments and Taxation; Department of Legislative Services

Fiscal Note History: First Reader - January 21, 2022
fnu2/jkb Third Reader - February 25, 2022

Analysis by: Donovan A. Ham

Direct Inquiries to:

(410) 946-5510

(301) 970-5510