

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 93

(Delegate Holmes)

Environment and Transportation

Judicial Proceedings

Residential Ground Leases - Redemption and Extinguishment - Requirements

This bill repeals statutory provisions that prohibit a leasehold tenant from providing specified documentation and payment to the State Department of Assessments and Taxation (SDAT) earlier than 90 days after an application for redemption/extinguishment has been posted on SDAT's website. The bill specifies that SDAT must issue to a leasehold tenant a ground rent redemption/extinguishment certificate, as appropriate, when (1) notice that application has been made to redeem/extinguish the ground rent has been posted for at least 90 days and (2) SDAT has received specified documentation, fees, and any required payment amounts, as applicable. The bill also makes various technical changes.

Fiscal Summary

State Effect: The bill likely results in operational efficiencies but is not anticipated to materially affect State finances.

Local Effect: The bill is not anticipated to materially affect local government 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.

Under the Real Property Article, 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. However, statutory provisions require any ground lease holder of an irredeemable ground rent to take specified actions (*e.g.*, record a renewal notice of intention to preserve irredeemability) in order to preserve this status.

If a ground rent is redeemable, statutory provisions specify requirements for the redemption. In general, after a leasehold tenant has given the ground lease holder specified notice, the tenant may apply to SDAT to redeem a ground rent. The tenant must (1) provide SDAT with satisfactory documentation of the ground lease and the notice given to the lease holder and (2) pay a specified fee. Upon receipt, SDAT must post on its website that application has been made to redeem/extinguish the ground rent; this notice must remain posted for at least 90 days.

A leasehold tenant must also provide:

- payment of the redemption amount and up to three years' past due ground rent to the extent required under existing statutory provisions in a form satisfactory to SDAT; and
- an affidavit made by the leasehold tenant, in the form adopted by SDAT, certifying that (1) the leasehold tenant has not received a bill for ground rent due or other communication from the lease holder regarding the ground rent during the three years immediately before the filing of the documentation required for the issuance of a redemption certificate, as specified *or* (2) the last payment for ground rent was made to the ground lease holder identified in the affidavit, as specified.

However, a tenant may not provide these items earlier than 90 days after the application for redemption/extinguishment has been posted.

Similarly, a leasehold tenant seeking to extinguish an irredeemable ground rent or redeem a redeemable ground rent on abandoned or distressed property that was acquired or is being acquired by the Mayor and City Council of Baltimore must provide to SDAT payment of up to three years' past due ground rent to the extent required under existing statute. A tenant must also provide an affidavit from the Commissioner of the Baltimore City Department of Housing and Community Development (or designee) certifying that (1) the property is abandoned or distressed property, as specified; (2) the property was acquired or is being acquired by the Mayor and City Council; and (3) the ground rent is an impediment to redevelopment of the site. This must be done no earlier than 90 days after the application for redemption/extinguishment has been posted to SDAT's website.

Upon receipt of the documentation, fees, and (if applicable) the redemption amount and three years' past due ground rent, SDAT must issue to the leasehold tenant a ground rent redemption certificate or a ground rent extinguishment certificate, as appropriate.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 196 (Senators Sydnor and Hayes) - Judicial Proceedings.

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

Fiscal Note History: First Reader - January 30, 2023
km/jkb
Third Reader - March 3, 2023

Analysis by: Donavan A. Ham

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