

WITNESS SHEET
SENATE JUDICIAL PROCEEDINGS COMMITTEE

DATE OF HEARING: FEBRUARY 28, 2007

SENATE BILL NO.: 289

HOUSE BILL NO.:

SUBJECT: GROUND RENTS – EJECTMENT ACTIONS – POSTING NOTICE ON PROPERTY

SPONSORED BY: SENATOR KELLEY

PLEASE PRINT CLEARLY AND LIMIT YOUR SPEAKING TIME TO 3 MINUTES OR LESS

SUPPORT	SUPPORT WITH AMENDMENTS	OPPOSE	NAME AND ADDRESS	REPRESENTING	PHONE NO.
✓			✓ Joe Krone 8706 GROVER MOUNTAIN DR 21117	MYCE HE	410-654-1300
✓			✓ Atty Genl Doug Gonsky		
		✓	✓ Lorenzo Bellamy, Esq	Alexander Cleaver	
		✓	✓ R. Marc Goldberg, Esq.	Ground Rent Owners Coalition	
		✓	✓ Bill Pitcher ✓ Jim Cosgrove	Maryland Landlord and Tenant Association	
	✓		✓ CAROLYN COOK	G3BR	410 337 7200
	✓		✓ Katherine Kelly Howard	Regiment Management Inc	410-539 2310
✓			Joseph Bryce – Governor's Office		410-974-3332
			✓ PAUL GRAZIANO	BC Housing	
✓			✓ William Burgee		410-337 1200

IF THERE IS WRITTEN TESTIMONY, PLEASE PROVIDE 20 COPIES ONE HOUR BEFORE THE HEARING TO

THE COMMITTEE STAFF, THANK YOU FOR YOUR COOPERATION.

✓ ~~Phillip Robinson~~

~~WILLIAM BURGEE~~

Support

✓
✓

SB 201

Phillip Robbins

410-706-0574

Kathy Ridgeway

410-679-8288

~~oppose~~

Charles Moskwa

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		✓	Kathleen Murphy } panel	MO Bankers Assoc.	443-837-1618
		✓	Bob Eiten	MO Bankers Assoc.	"/
		✓	Tim Perry	MO Bankers Assoc.	"/
✓			Phillip Robinson	Civil Justice	410-706-0174
✓			Kathy Kidgeway		410-679-8288

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SENATOR DELORES G. KELLEY
10th Legislative District

Senate Finance Committee

Chair

Committee on Executive Nominations

Vice Chair

Joint Committee on Health
Care Delivery and Financing

State Commission on
Criminal Sentencing Policy



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

James Senate Office Building
11 Bladen Street, Room 302
Annapolis, Maryland 21401
410-841-3606
Fax 410-841-3399

Chair

Joint Committee on Mental Health

Maryland Commissioner
Education Commission of
the States

Vice Chair

Financial Services Committee
National Conference of
State Legislatures

TESTIMONY OF SENATOR DELORES G. KELLEY

BEFORE JUDICIAL PROCEEDINGS

FEBRUARY 28, 2007

SB-289 "GROUND RENT"

Mr. Chairman and Members, I appreciate this opportunity to reintroduce the legislation designated this year as Senate Bill 289. The same legislation was before this committee in the 2005 Session.

The Bill is offered as just one of several modes of relief which together would mitigate the significant problems of Maryland residents, who are ejected from their homes for small ground-rent delinquencies, especially in cases where the current lease hold owner is unaware of the existence of the ground rent and /or of the delinquency.

Senate Bill 289 adds a simple, but easily accomplished step (the physical posting on the property) as an additional prerequisite before ejecting a delinquent owner from a residential property which is subject to a ground rent.

The importance of such a step is that a ground rent owner can no longer send mail to a deceased former owner of the residence and then move to eject a present owner who was never notified of any delinquency.

When a sign is physically posted on the property, a current owner, who might have inherited the property or who might have searched unsuccessfully for the identity of a ground rent owner will now have highly visible notice, and the contact information needed to respond appropriately.

I therefore urge your favorable report of Senate Bill 289.

February 28, 2007

TO: Members of the Senate Judicial Proceedings Committee

FROM: Demaune Millard, Director

RE: Senate Bill 289 - Ejectment Actions - Posting Notice on Property
Senate Bill 396 - Remedy for Nonpayment of Ground Rent
Senate Bill 397 - Conversion of Irredeemable Ground Rents
Senate Bill 398 - Notices Regarding Ground Leases
Senate Bill 622 - Limitation of Actions - Registry of Ground
Leases
Senate Bill 623 - Redemption

POSITION: SUPPORT WITH AMENDMENTS

Chairman Frosh, Vice-Chairman Gladden and Members of the Senate Judicial Proceedings Committee, please be advised that the Baltimore City Administration **supports** Senate Bills 289, 396, 397, 398, 622, and 623.

There are ground rents on 1 out of every 3 single-family homes in Baltimore thus making these legislative remedies important to protecting our residents and also our housing market.

Ground rents, as demonstrated in our earlier presentation before this committee, are highly concentrated in distressed communities in Baltimore City particularly in East and West Baltimore and in the Park Heights corridor. These communities are characterized by high numbers of at risk households living in poverty who are more suspect to predatory ground rent actions and ejectments. These areas are also characterized by large numbers of vacant and abandoned properties and are a focal point of the City's blight remediation efforts. Half of the all the vacant buildings in Baltimore City have ground rents on them. Thus, Baltimore City has multiple interests in seeing that ground rent reform is passed so we can both protect our residents and work to restore our housing market.

Bill Burgee will provide some comments on SB 755 that specifically addresses ground rents on properties owned by Baltimore City. I would like to point out some of the merits of the remaining ground rent bills before us today.

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SB – 289 – Posting Notice on Property

This bill would enhance notification by requiring that personal service and posting be required at all times for a notice of ejectment.

SB – 396 – Remedy for Nonpayment of Ground Rents

This is perhaps one of the most important bills before us today in that it will serve to correct the highly imbalanced repayment mechanism of ejection. Ground rent owners should not be able to leverage the full equity homeowners have built up in their homes over non-payment of ground rent.

SB – 397 – Conversion of Irredeemable Ground Rents

Irredeemable ground rents are more than 130 years old and have been sold or passed through multiple hands since they were created yet cannot be bought by right by the leasehold owner. Encouraging the conversion of these ground rents to be redeemable by right, particularly on ground rents that have been abandoned by the landlord, is good public policy.

SB – 398 – Ground Rents – Notices Regarding Ground Leases

Enhanced notice of rights and information is critical for existing homeowners and new homebuyers. Many individuals do not know that they can already redeem their ground rents by right or that back rent is limited to 3 years by law. Enhanced information at the time of settlement can also serve to ease home purchase and ground rent liability concerns.

SB – 622 – Registry of Ground Rents

Ground rent registry is important not only to better inform our housing market intervention efforts but to also provide housing market actors, such as title companies, real estate agents, and attorneys enhanced information to make better decisions and ease the transaction process.

SB – 623 – Ground Rents Redemption

This bill encourages the redemption of redeemable ground rents. With the new law precluding the creation of new ground rents this bill will move in the direction of eliminating ground rents from the Maryland real estate landscape.

Separately, each of the bills provide an important reform component. However, looking at the entire package of proposed reforms, the bills constitute holistic change providing enhanced notification, process, and protections. Passing just one or two bills will be an incremental step in the right direction. However, to truly reform the system, elements of each of these bills should be supported by the Committee.

We respectfully request your assistance in securing a **favorable** report on Senate Bills 289, 396, 397, 398, 622, and 623.

cc: Baltimore City Senators
Paul Graziano, Housing Commissioner



Maryland Association of REALTORS®, Inc.
2594 Riva Road, Annapolis, MD 21401-7406

Mary C. Antoun
Executive Vice President

William A. Castelli
Vice President of Government Affairs

410.841.6080

Senate Bill 289 – Ground Rents – Ejectment Actions – Posting notice on Property

Position: Support

The Maryland Association of REALTORS® (MAR) supports SB 289 which would require that a person facing ejectment under a ground rent be given posted notice of the ejectment in addition to the currently required mailing.

Current law permits a ground rent owner to enter a property 45 days after mailing the tenant a bill. Because the current occupants of the property facing an ejectment action may not actually be the party paying the ground rent, the posting requirement will ensure all parties affected by ejectment will receive notice.

MAR encourages a favorable report.



Ground Rent Reform in Maryland – Judicial Proceedings Committee

Submitted by: The Greater Baltimore Board of REALTORS®, Inc.

Contact: Carolyn Blanchard Cook, Deputy Executive Vice President, 410-337-7200 or Carolyn@GBBR.org

As the first board of REALTORS® in the nation, the Greater Baltimore Board of REALTORS®, Inc. was founded to promote ethical conduct in the real estate industry and to protect the rights of all property owners. 150 years later, GBBR's 4,700 members work hard to help people in Baltimore City and Baltimore County achieve and retain the dream of homeownership. GBBR and its members stand united in the view that Maryland's ground rent system must be reformed to protect homeowners who have worked so hard to purchase and build equity in their home but that these reforms must recognize the current property rights ground rent owners hold. Ground rents, while primarily found in Baltimore City, Baltimore County and Anne Arundel County, are located across Maryland. Sold data from MRIS revealed that in 2006, the following counties showed transactions subject to a ground rent:

2006 Properties Transferred Using MRIS

Source: 2006 MRIS Sold Data

County	Total Transfers	Ground Rent	Percent
Alleghany	678	4	0.59%
Anne Arundel	7,857	223	2.84%
Baltimore County	10,305	1,330	12.91%
Baltimore City	10,179	4,057	39.86%
Calvert County	1,258	9	0.72%
Caroline County	420	3	0.71%
Carroll County	2,020	14	0.69%
Cecil County	1,155	18	1.56%
Charles County	2,728	18	0.66%
Dorchester County	429	7	1.63%
Frederick County	3,713	16	0.43%
Garrett County	501	4	0.80%
Harford County	3,645	46	1.26%
Howard County	4,060	25	0.62%
Kent County	256	2	0.78%
Montgomery County	13,522	41	0.30%
Prince George's County	13,110	40	0.31%
Queen Anne's County	721	4	0.55%
St. Mary's County	1,441	2	0.14%
Somerset County	52	0	0.00%
Talbot County	643	5	0.78%
Washington County	1,605	19	1.18%
Wicomico County	62	2	3.23%
Worcester County	42	0	0.00%

Somerset County had 2 transfers subject to a ground rent in 2004

Worcester County had 1 transfer subject to a ground rent in 2005

The following pages detail GBBR's comments and amendments with respect to the various ground rent bills before this Committee today.

Senate Bill 289: Ground Rents – Ejectment Actions – Posting Notice on Property

Position: Support

SB 289 would require that before a ground rent owner may bring an action for possession, the ground rent owner must also post the property in a conspicuous place pursuant to the Maryland Rules. GBBR recognizes that many leasehold tenants have not recalled receiving notice of an ejectment action and believes that the requirement for posting should help to eliminate this problem. GBBR urges a favorable report.

Senate Bill 396: Ground Rents – Remedy for Nonpayment of Ground Rent

Position: Support with Amendments

SB 396 eliminates the right of ejectment from the many remedies currently available to a ground rent owner in cases where the leasehold tenant has failed to pay rent and replaces it with a lien right. GBBR believes that the ejectment remedy is a particularly harsh remedy that gives a ground rent owner an unfair windfall, especially in cases where the debt owed is miniscule compared to the overall value of the property. While GBBR recognizes that an ejectment remedy may have made sense in a time when the value of the property was in fact in the land, GBBR believes this remedy is outdated in a time when it is the improvement that really brings value to the overall property.

GBBR strongly supports the elimination of the ejectment remedy and replacing it with a lien remedy. GBBR also believes that any lien must be filed in the land records so that future purchasers can be made aware of its existence, that the failure to file the lien in the land records within a certain period of time precludes enforcement of the lien and that the lien has priority over all other liens. GBBR believes that the priority issue is an important one because it is the only way to preserve the ground rent owners current priority status vis-à-vis other lien holders.

SB 396 further provides that a lien created under this section may be enforced and foreclosed upon at any time prior to the satisfaction of the lien by the leasehold tenant. This provision, however, while preserving the homeowner's equity, does not preserve his home. GBBR is concerned that homeowners who own property subject to a ground rent are currently losing both their equity and their home. To that end, GBBR suggests that the lien may not be foreclosed upon unless the value of the lien is the lesser of 20% of the assessed value of the property or \$20,000 or three years have passed since the date of final judgment. GBBR believes that these limiting criteria will ensure that the property owner has ample time to refinance or otherwise amass the funds necessary to satisfy the lien prior to the foreclosure. While some may complain that the waiting period creates an undue burden, a survey of GBBR's members who hold ground rents revealed that the overwhelming majority do not find this provision overly burdensome as they have chosen in the past to let the ground rent go dormant rather than take action that would remove the leasehold tenant from his home. Although ejectment appears to be the preferred remedy, ground rent owners currently have a variety of remedies available to them to collect back ground rent, including the right to institute a personal action against the leasehold tenant. Finally, GBBR believes that in cases where the leasehold tenant utilizes the Department of Assessment and Taxation system to pay-off the lien and in effect redeem the property, that the Department must be instructed to issue the certificate of redemption that is then filed in the land records.

To that end, GBBR respectfully suggests the following amendments:

No. 1 On page 5, lines 26-29, strike and replace with:

(B) NOTWITHSTANDING ANY PROVISION OF A GROUND LEASE GIVING THE LANDLORD THE RIGHT TO REENTER, THE ESTABLISHMENT OF A LIEN UNDER THIS SECTION OR A PERSONAL ACTION UNDER SUBSECTION Q ARE THE SOLE REMEDIES FOR NONPAYMENT OF A GROUND RENT.

No. 2 On page 9, line 11, substitute SHALL for MAY.

No. 3 On page 9, line 30, after MAY insert NOT.

No. 4 On page 10, lines 1 and 2, strike and replace with:

(4) A LIEN IMPOSED UNDER THIS SUBTITLE HAS PRIORITY OVER ALL OTHER LIENS, EXCEPT TAX LIENS.

No. 5 On page 10, lines 20-24, strike in their entirety and substitute:

(O) (1) A LIEN CREATED UNDER THIS SUBTITLE MAY BE ENFORCED AND FORECLOSED BY THE PARTY WHO OBTAINED THE LIEN IN THE SAME MANNER, AND SUBJECT TO THE SAME REQUIREMENTS, AS THE FORECLOSURE OF MORTGAGES OR DEEDS OF TRUSTS ON PROPERTY IN THIS STATE CONTAINING A POWER OF SALE OR AN ASSENT TO A DECREE, PROVIDED THAT:

(I) THE LIEN AMOUNT IS THE LESSER OF 20% OF THE ASSESSED VALUE OF THE PROPERTY AS DETERMINED BY THE STATE DEPARTMENT OF ASSESSMENT AND TAXATION

(II) THE LIEN AMOUNT EXCEEDS \$20,000; OR

(III) THREE YEARS HAVE PASSED SINCE THE DATE OF FINAL JUDGEMENT.

No. 6 On page 11, line 8, after TITLE, strike the period and add:

AFTER WHICH THE DEPARTMENT SHALL PROCEED IN ACCORDANCE WITH §8-110(G)(7).

No. 7 On page 11, after line 8, insert new subsection Q as follows:

(Q) NOTHING IN THIS SUBTITLE AFFECTS THE RIGHT OF A GROUND RENT OWNER TO MAINTAIN A PERSONAL ACTION AGAINST THE LEASEHOLD TENANT FOR PAST GROUND RENT DUE.

Senate Bill 397 – Ground Rents – Conversion of Irredeemable Ground Rents

Position: Support with Amendments

SB 397 affects ground rents created prior to April 9, 1884, which are called "irredeemable" ground rents because there is no statutory provision granting the leasehold tenant the absolute right to redeem the ground rent at a stated capitalization value. However, many of these so-called "irredeemable" ground rents are in fact redeemable by the terms stipulated in the lease agreement. Additionally, these ground rents are redeemable at any time that both the ground rent owner and the leasehold tenant reach agreement on the redemption amount.

SB 397 would require that the owner of a pre-April 9, 1884 ground rent file his intent to maintain the irredeemability of the ground rent every ten years. If the ground rent owner failed to record his intent as stipulated in SB 397, the ground rent would become redeemable by right at a capitalization rate of 6%. Most ground rents were created between the years of May 16, 1882 and July 1, 1982, making them redeemable by right at 6%.

GBBR supports the desire to ensure that all ground rents, whenever created, be redeemable by right at a specified capitalization rate. Furthermore, while GBBR understands that the idea behind the registry is to retain the current right of a ground rent owner to receive a specified annual sum in perpetuity for those owners who wish to retain this right, GBBR finds the continual filing requirement to be both confusing and cumbersome. GBBR believes that a cleaner way to ensure that an owner of a pre-1884 ground rent receive a perpetual return on his investment is to make these ground rents redeemable at a capitalization rate that would return the desired amount on an annual basis. In other words, if the owner of a pre-1884 ground rent invested \$2,250 in a savings account today, that investment would yield an annual return of \$101 or 4.5%.

To that end, GBBR respectfully offers the following amendment:

On page 2, line 9 through page 6, line 12: delete text in its entirety and substitute the following language:

§8-110 REDEMPTION OF CERTAIN REVERSIONS.

(A) (1) THIS SECTION DOES NOT APPLY TO LEASES OF PROPERTY LEASED FOR BUSINESS, COMMERCIAL, MANUFACTURING, MERCANTILE, OR INDUSTRIAL PURPOSES OR ANY OTHER PURPOSE WHICH IS NOT PRIMARILY RESIDENTIAL, WHERE THE TERM OF THE LEASE, INCLUDING ALL RENEWALS PROVIDED FOR, DOES NOT EXCEED 99 YEARS. A LEASE OF THE ENTIRE PROPERTY IMPROVED OR TO BE IMPROVED BY ANY APARTMENT, CONDOMINIUM, COOPERATIVE, OR OTHER BUILDING FOR MULTIPLE-FAMILY USE ON THE PROPERTY CONSTITUTES A BUSINESS AND NOT A RESIDENTIAL PURPOSE. THE TERM "MULTIPLE-FAMILY USE" DOES NOT APPLY TO ANY DUPLEX OR SINGLE-FAMILY STRUCTURE CONVERTED TO A MULTIPLE-DWELLING UNIT.

(2) ~~EXCEPT AS PROVIDED IN SUBSECTION (G) OF THIS SECTION, THIS SECTION DOES NOT APPLY TO IRREDEEMABLE LEASES EXECUTED BEFORE APRIL 9, 1884.~~

~~(3)~~ THIS SECTION DOES NOT APPLY TO LEASES OF THE GROUND OR SITE UPON WHICH DWELLINGS OR MOBILE HOMES ARE ERECTED OR PLACED IN A MOBILE HOME DEVELOPMENT OR MOBILE HOME PARK.

(B) (1) EXCEPT FOR APARTMENT AND COOPERATIVE LEASES, ANY REVERSION RESERVED IN A LEASE FOR LONGER THAN 15 YEARS IS REDEEMABLE, AT THE OPTION OF THE TENANT, AFTER 30 DAYS NOTICE TO THE LANDLORD. NOTICE SHALL BE GIVEN BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND BY FIRST-CLASS MAIL TO THE LAST KNOWN ADDRESS OF THE LANDLORD.

(2) THE REVERSION IS REDEEMABLE:

i. FOR A SUM EQUAL TO THE ANNUAL RENT RESERVED BY:

1. 25, WHICH IS A CAPITALIZATION AT 4 PERCENT, IF THE LEASE WAS EXECUTED FROM APRIL 8, 1884 TO APRIL 5, 1888, BOTH INCLUSIVE;
2. 8.33, WHICH IS A CAPITALIZATION AT 12 PERCENT, IF THE LEASE WAS OR IS CREATED AFTER JULY 1, 1982;
OR
3. 24, WHICH IS CAPITALIZATION AT 4.5 PERCENT, IF THE LEASE WAS CREATED BEFORE APRIL 8, 1884; OR
4. 16.66, WHICH IS CAPITALIZATION AT 6 PERCENT, IF THE LEASE WAS CREATED AT ANY OTHER TIME.

Senate Bill 398: Ground Rents – Notices Regarding Ground Leases

Position: Support with Amendments

SB 398 imposes a requirement on the leasehold tenant to notify the ground rent owner within 30 days of any change in address of the tenant. SB 398 also requires that no later than 60 days prior to an annual or semi-annual ground rent payment being due that the ground rent owner send to the leasehold tenant a notice stating the dollar amount of the ground rent, when it is due and the name, address and telephone number of the ground rent owner. SB 398 requires a similar notice be included in the contract for the sale of real property subject to a ground rent. GBBR supports the requirement that the leasehold tenant notify the ground rent owner upon the change of address as many ejectment cases are the result of a leasehold tenant not informing the ground rent owner of the current mailing address for the tenant. GBBR also supports the requirement that notice be given to the leasehold tenant prior to an installment being due that informs the tenant of where to send the required payment. GBBR also recommends that both the date the ground rent was created and the calculated redemption amount be included in this notice. Both of these pieces of information are readily available to the ground rent owner and would facilitate a leasehold tenant in making an informed decision as to whether redeeming or continuing the annual rent is in his best financial interests. The proposed notice to be required in the contract of sale is problematic for the seller for a number of reasons, primarily the seller may not have the information that must be provided. In other words, if the ground rent is dormant, the seller may not know the current address of the ground rent owner or the due dates for the installments.

To that end, GBBR respectfully offers the following amendments:

No. 1 On page 3, after line 21 insert:

THIS GROUND RENT WAS CREATED ON (DAY, MONTH AND YEAR GROUND RENT WAS CREATED) AND MAY REDEEMED FOR THE SUM OF \$(USE THE LESSER OF THE REDEMPTION AMOUNT PROVIDED BY THE UNDERLYING GROUND LEASE OR REAL PROPERTY SECTION 8-110).

No. 2 On page 4, line 33, and on page 5, line 6, strike the brackets.

No. 3 On page 5, line 7 through page 6, line 17, strike in its entirety.

Senate Bill 622: Real Property – Limitation of Actions – Registry of Ground Leases

Position: Support with Amendments

SB 622 provides that anytime there is no demand or payment for rent for more than three consecutive years, the underlying ground rent is automatically extinguished. The bill does make allowances for cases where

the ground rent owner is under a disability. SB 622 further sets up a registry system through the Department of Assessment and Taxation for all ground rents and requires ground rent owners to register their ground rents for a fee of \$20 each before September 30, 2010. Failure to register by that date would again extinguish the underlying ground rent. GBBR is concerned at using three years as the trigger for extinguishing the underlying ground rent as this seems to confuse a statute of limitations approach found in contract and tort cases with the historic standard of 20 years prior to the extinguishment of a property right. To be clear, a ground rent is a property right, albeit a future contingent interest in the underlying ground. As a property right, a ground owner should be entitled to a full 20 years before he has been deemed to have abandoned his rights under law.

GBBR supports the concept of a registry system provided that everyone is clear that a self-reporting registry, by its nature, can never be 100% up to date or 100% correct. To that end, the law must be clear about the extent to which a party may rely on the registry as a source of information. Additionally, while GBBR makes no specific comment as to the per ground rent registration fee, GBBR strongly believes that the fee should be a percentage of the ground rent itself and that there should be a maximum amount that any one ground rent owner should be forced to pay to register his ground rents. In this respect, a ground rent owner is neither paying more to register the ground rent than what he gets in annual rent and the large ground rent owners who rely on their annual rents as the primary source of their income are not unfairly deprived of needed living income during the year of registration.

Finally, GBBR recognizes that a penalty must be imposed for those ground rent owners who fail to register with the registry. SB 622 would provide for the automatic extinguishment of the ground rent but only in cases where no legal disability prevented the ground rent owner from complying with the registration provision. GBBR is concerned as to how this penalty could be imposed without inadvertent mistakes being made. GBBR is also concerned that the proposed penalty may rise to the level of a constitutional taking that would require just compensation by the state at the taxpayer's expense. In an effort to avoid the complexities and uncertainties created in SB 622, GBBR suggests that the ground rent owner be denied the ability to bring an action against the leasehold tenant for failure to pay rent for a period of one year after the date of registration.

To that end, GBBR respectfully suggests the following amendments:

No. 1 On page 3, line 10 through page 4, line 7, strike in its entirety.

No. 2 On page 5, lines 9 and 10, strike and replace with:

A REGISTRATION APPLICATION FEE EQUAL TO 10% OF THE ANNUAL RENT OF EACH GROUND RENT NOT TO EXCEED A TOTAL PAYMENT OF \$5,000 FOR EACH GROUND RENT OWNER.

No. 3 On page 7, lines 10 through 22, strike in their entirety and replace with:

§8-707. IF A LANDLORD DOES NOT SATISFY THE REQUIREMENTS OF §8-706 OF THIS SUBTITLE, THE LANDLORD MAY NOT BRING AN ACTION UNDER §8-402.2 OF THIS SUBTITLE UNTIL ONE YEAR AFTER THE REGISTRATION IS COMPELTE.

Senate Bill 623: Ground Rents – Redemption

Position: Support with Amendments

SB 623 removes the period of time that a leasehold tenant must wait prior to redeeming a ground rent created after 1982 and creates a right of first refusal in favor of the leasehold tenant in cases where the ground rent owner elects to sell his interest in the ground rent to a new owner. GBBR understands that the intent behind this proposal is to encourage leasehold tenants to purchase the ground rent at the statutory redemption rate in those cases where the ground rent owner is seeking to sell his investment. GBBR also supports efforts to encourage leasehold tenants to redeem their underlying ground rents and would like to offer the amendments set forth below as an alternative method that GBBR believes will dramatically simplify the process for the ground rent owner and provide a better incentive to the ground tenant to redeem the underlying ground rent.

In short, GBBR's proposed amendment would require the new ground rent owner to provide the leasehold tenant notice after the purchase of the underlying ground rent and an opportunity to redeem the ground rent for his purchase price plus 10%. This approach captures the discounted purchase price at which the new ground rent owner purchased the ground rent and passes these savings on to the leasehold tenant, while compensating the new ground rent owner for any transaction costs he incurred as a result of the purchase and partially compensating the new ground rent owner for the loss of any anticipated future return on investment.

Additionally, by having the new ground rent owner make the notification after the purchase, the amendments take advantage of the fact that the new ground rent owner will already be sending the leasehold tenant notice of the change in ownership and change in billing address.

To that end, GBBR respectfully offers the following amendments:

No. 1 On page 2, lines 14 and 15: delete text in its entirety.

No. 2 On page 2, line 29, strike OR and add new subsection (3) as follows and renumber existing subsection (3) to new subsection (4).

3. 24, WHICH IS CAPITALIZATION AT 4.5 PERCENT, IF THE LEASE WAS CREATED BEFORE APRIL 8, 1884; OR

No. 3 On pages 8, strike lines 1 through 31 and on page 9, strike lines 1 through 5 and substitute:

(1) AFTER A VOLUNTARY TRANSFER OF A REDEEMABLE GROUND RENT TO A THIRD PARTY, THE PURCHASING LANDLORD SHALL GIVE THE TENANT NOTICE OF THE TENANT'S RIGHT TO REDEEM THE GROUND RENT UNDER §8-110 OF THIS SUBTITLE AND OFFER THE TENANT THE OPPORTUNITY TO EXERCISE THE RIGHT TO REDEEM.

(2) THE NOTICE SHALL STATE:

(I) THE REDEMPTION AMOUNT CALCULATED IN ACCORDANCE WITH §8-110(B)(2) OF THIS SUBTITLE;

(II) THE AMOUNT PAID BY THE GROUND RENT PURCHASER PLUS 10%;

(III) SUBJECT TO §8-111.1 OF THIS SUBTITLE, THE AMOUNT OF BACK RENT DUE

(IV) THE ANNUAL AMOUNT OF THE GROUND RENT;

(V) WHETHER THE GROUND IS TO BE PAID ANNUALLY OR SEMI-ANNUALLY;

(VI) THE NEXT DUE DATE FOR THE GROUND RENT;

(VII) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE GROUND RENT PURCHASER; AND

(VIII) THE DATE ON WHICH THE GROUND RENT WAS ORIGINALLY CREATED.

(3) NOTICE SHALL BE GIVEN BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND BY FIRST-CLASS MAIL TO THE LAST KNOWN ADDRESS OF THE TENANT AND, IF DIFFERENT, TO THE ADDRESS LISTED IN THE RECORDS OF THE STATE DEPARTMENT OF ASSESSMENT AND TAXATION.

(B) (1) THE TENANT SHALL HAVE 30 DAYS AFTER THE DATE OF RECEIPT OF THE NOTICE TO NOTIFY THE LANDLORD OF THE TENANT'S INTENT TO EXERCISE THE RIGHT TO REDEEM.

(2) IF THE TENANT DOES NOT RESPOND TO THE NOTICE OR NOTIFIES THE LANDLORD THAT THE TENANT WAIVES THE RIGHT TO REDEEM WITHIN 30 DAYS AFTER RECEIPT OF THE NOTICE, THE TENANT MAY ONLY REDEEM THE GROUND RENT PURSUANT §8-110.

(C) (1) IF THE TENANT NOTIFIES THE LANDLORD WITHIN THE 30-DAY PERIOD OF THE TENANT'S INTENT TO EXERCISE THE RIGHT TO REDEEM, THE TENANT SHALL HAVE AN ADDITIONAL 30 DAYS AFTER THE DATE OF MAILING THE NOTIFICATION TO THE LANDLORD TO TENDER THE REDEMPTION AMOUNT AND ANY BACK RENT DUE.

(2) WITHIN 30 DAYS AFTER RECEIPT OF THE REDEMPTION AMOUNT AND ANY BACK RENT DUE, THE LANDLORD SHALL PROVIDE TO THE TENANT A DEED OF REDEMPTION OF THE GROUND RENT.

(3) UNLESS THE LANDLORD AND THE TENANT AGREE TO A LONGER TIME PERIOD, IF THE TENANT FAILS TO TENDER THE REDEMPTION AMOUNT AND ANY BACK RENT DUE WITHIN 30 DAYS AFTER THE DATE OF MAILING THE NOTIFICATION OF INTENT TO REDEEM TO THE LANDLORD, THE TENANT MAY ONLY REDEEM THE GROUND RENT PURSUANT §8-110.

Senate Bill 755: Ground Rents – Property Owned by Baltimore City – Reimbursement for Expenses – Notice

Position: No position