

**WITNESS SHEET**  
**SENATE JUDICIAL PROCEEDINGS COMMITTEE**

**DATE OF HEARING: FEBRUARY 28, 2007**

**SENATE BILL NO.: 397**

**HOUSE BILL NO.:**

**SUBJECT: GROUND RENTS – CONVERSION OF IRREDEEMABLE GROUND RENTS**

**SPONSORED BY: SENATOR GLADDEN, ET AL**

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

SUPPORT	SUPPORT WITH AMENDMENTS	OPPOSE	NAME AND ADDRESS	REPRESENTING	PHONE NO.
✓			<del>Joseph Kromc</del>	MYSELF	410-674-1301
✓			<del>Atty General Doug Gansler</del>		
	✓		Lorenzo Bellamy, Esq.	Alexander's Cleaver	
	✓		R. Marc Goldberg, Esq.	Ground Rent Owners Coalition	
✓			<del>Bill Pitcher</del> Jim Cosgrove	Maryland Land Title Association	
	✓		<del>Kathleen K. Haward</del>	Residential Management, Inc	410-539-2370
	✓		✓ CAROLYN COOK	GBLR	410 337 7200
✓			<del>Joseph Bryce – Governor's Office</del>		410-974-3336
✓			<del>Kathleen Skulley</del>	LEGAL AID BUREAU	410-951-7784

**IF THERE IS WRITTEN TESTIMONY, PLEASE PROVIDE 20 COPIES ONE HOUR BEFORE THE HEARING TO THE COMMITTEE STAFF, THANK YOU FOR YOUR COOPERATION.**

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SUPPORT	SUPPORT WITH AMENDMENTS	OPPOSE	NAME AND ADDRESS	REPRESENTING	PHONE NO.
✓			[ Paul Guarizano William Bungee ] Panel	Ballo Housing	410 269
✓					0207
		✓	Charles Muskin	self	410 349.9599

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**SENATE OF MARYLAND  
JUDICIAL PROCEEDINGS COMMITTEE  
VOTING RECORD**

DATE 3-16-07

SB 397

HB \_\_\_\_\_

SJR \_\_\_\_\_

HJR \_\_\_\_\_

MOTION FWA

BILL PASSED  FAILED \_\_\_\_\_

FAVORABLE \_\_\_\_\_

FAVORABLE WITH AMENDMENT

AMENDMENT \_\_\_\_\_

RE-REFER \_\_\_\_\_

I.D. No./SPONSOR \_\_\_\_\_

UNFAVORABLE \_\_\_\_\_

VOTE FAV

HOLD \_\_\_\_\_

ADOPTED yes

OTHER \_\_\_\_\_

	YEAS	NAYS
SENATOR FROSH, CHAIRMAN	✓	
SENATOR GLADDEN, VICE CHAIRMAN	✓	
SENATOR BROCHIN	✓	
SENATOR FOREHAND	✓	
SENATOR HAINES	✓	
SENATOR JACOBS	✓	
SENATOR MOONEY	✓	
SENATOR MUSE	✓	
SENATOR RASKIN	✓	
SENATOR SIMONAIRE	✓	
SENATOR STONE	✓	
<b>TOTAL</b>	<b>11</b>	<b>—</b>



SENATE JUDICIAL PROCEEDINGS COMMITTEE  
BRIAN E. FROSH, CHAIRMAN · COMMITTEE REPORT SYSTEM  
DEPARTMENT OF LEGISLATIVE SERVICES · 2007 MARYLAND GENERAL ASSEMBLY

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## FLOOR REPORT

### SENATE BILL 397

#### Ground Rents - Conversion of Irredeemable Ground Rents

**SPONSORS:** Senator Gladden, *et al.*  
(By Request – Administration)

**COMMITTEE RECOMMENDATION:** Favorable with amendments (3)

#### BILL SUMMARY:

This bill authorizes the conversion of an *irredeemable* ground rent to a *redeemable* ground rent. An irredeemable ground rent is one that was created before April 9, 1884 and does not contain a voluntary redemption provision.

Specifically, the bill provides that:

- An irredeemable ground rent on residential property is converted to a redeemable ground rent unless a notice of intention to preserve irredeemability is recorded by the ground lease holder in the land records of the county where the land is located by Dec 31, 2010;

- If a notice to preserve is timely recorded, the ground rent remains irredeemable only until Dec 31, 2020, at which point the notice lapses and the ground rent becomes redeemable unless another notice to preserve is recorded for another 10-year period, etc; and

- When a ground rent is redeemed under this law, the redemption may occur at any time and amount is the annual rent plus 6% capitalization.

**COMMITTEE AMENDMENTS:** The committee adopted 3 amendments.

**Amendment No. 1** – revises the defined terms and adds the applicability provision so that the bill applies to residential property

**Amendment No. 2 & 3** – make technical changes to the body of the bill consistent with the revised defined terms and make other clarifying changes

## **BILL SUMMARY:**

An irredeemable ground rent becomes converted to a redeemable ground rent unless a notice of intention to preserve the irredeemability is recorded in the land records within the time period specified under the bill. The conversion occurs on the day following the end of the period in which the notice may be recorded. A disability or lack of knowledge does not prevent the conversion if the notice is not filed within the specified time period.

Any person holding an irredeemable ground rent may record a notice of intention to preserve irredeemability in the land records. To be effective and entitled to be recorded, the notice must be notarized and must include specified information about the ground rent. A notice that substantially meets the bill's requirements must be accepted for recording on payment of the same fees that are charged for recording a deed. The bill specifies that the filing is exempt from a State or local excise tax and how the notice must be indexed.

To preserve a ground rent's irredeemability, a notice of the intention to preserve irredeemability must be recorded by December 31, 2010. If the notice is not recorded before that time, the ground rent becomes redeemable. If a notice is recorded before December 31, 2010, the ground rent remains irredeemable for 10 years, through December 31, 2020. The notice lapses on January 1, 2021, unless a renewal notice is recorded within six months before the notice expires. Subsequent renewal notices lapse after 10 years, unless another renewal notice is recorded within 6 months before their expiration. If a notice lapses, the ground rent becomes redeemable.

A ground rent made redeemable under the bill is redeemable at any time following its conversion to redeemable status. The redemption amount is the annual rent reserved multiplied by 16.66, which is capitalization at 6%.

## **CURRENT LAW:**

Ground rents executed prior to April 9, 1884 could be redeemable or irredeemable, depending on the terms of the lease. A ground rent established on or after that date may be redeemed by the tenant. The tenant must give the ground rent holder one month's notice and pay:

- an amount equal to the annual rent multiplied by:
  - 25, which is capitalization at 4%, if the lease was executed from April 8, 1884 to April 5, 1888;
  - 8.33, which is capitalization at 12%, if the lease was executed after July 1, 1982; or
  - 16.66, which is capitalization at 6%, if the lease was executed at any other time;
- a lesser sum, if specified in the lease; or
- a sum to which the parties may agree at the time of redemption.

If the lease was executed after July 1, 1982, the reversion is redeemable five years after the date of the lease. If the lease was entered before that time, it may be redeemed at any time.

**CROSS FILE:** HB 452 (Delegate Rosenberg and the Speaker (Administration), et al. -- ENV

R. MARC GOLDBERG, P.C.  
ATTORNEY AT LAW

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GROUND RENT OWNERS COALITION  
TESTIMONY IN SUPPORT OF SB 397  
WITH AMENDMENTS

GROUND RENTS - CONVERSION OF IRREDEEMABLE GROUND RENTS

Offered Before The Senate Judicial Proceedings Committee

February 28, 2007

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The GRO Coalition is a collection of real estate investors, attorneys, and other individuals from across Maryland who own ground rents.

The GRO Coalition's mission is to adequately strike a balance between protecting consumer rights and protecting existing property interests of its member real estate investors and professionals.

The GRO Coalition extends its open hand to the legislature in modernizing the existing procedure for the collection of ground rents. Of the eight administration bills, the GRO Coalition supports, with amendments, most, but not all.

The GRO Coalition supports efforts to make ground rent redemption a natural part of every capital real estate transaction so that, by natural means, ground rents will become extinct, within a short period of time.

Meanwhile, however, Tenants have an existing obligation to pay ground rent. Tenants may be given several notices to pay their obligations, but the nature of the ground rent property interest is such that failure to pay does result in consequences.

The GRO Coalition welcomes the opportunity to work with the legislature in crafting appropriate solutions which balance the existing property rights of ground rent owners with reasonable additional protections for Tenants.

GRO Coalition Testimony In Support of SB 397  
With Amendments  
February 28, 2007  
Page 2

GRO Coalition generally supports this bill with the following issues addressed:

**Issue:**

- Fairness in retroactively effecting the status of an existing irredeemable ground rent contract

**GRO Coalition response:**

- Election to remain irredeemable should not be unduly burdensome and repeated. Notice should be one time only.
- Ground rent owner should not be required to provide any more information than currently in ground rent owner's knowledge, thus avoiding expenses of compliance (title search, etc.).
- Converted redemption amount should be at the same rate as were the first historically redeemable ground rents according to statute: i.e., 4% capitalization or multiplier of 25 times the annual rent.

**SPECIFIC AMENDMENTS OFFERED:**

- Page 3, line 29, define this person as "Claimant"
- Page 4, line 14/15, delete "the Land Records or" (so no title search is required)
- Page 4, line 20, delete " the Land Records or" (so no title search is required)
- Page 4, line 22/23, insert "Claimant's", delete "every irredeemable ground rent owner's"
- Page 4, line 24/25, delete (unnecessary since Clerk identifies block numbers on its own)
- Page 5, line 6, delete "every owner of the irredeemable ground rent" and insert "Claimant"
- Page 5, line 9, delete "the Land Records or" (to be consistent that no title search is required)
- Page 5, line 19 through Page 6, line 4, delete (unnecessary once an election is made)
- Page 6, line 11, delete "16.66" and insert "25" (since irredeemable ground rents, immediately after they were made redeemable in the late 1800's were redeemable at 4%)
- Page 6, line 12, delete "6" and insert "4" (since irredeemable ground rents, immediately after they were made redeemable in the late 1800's were redeemable at 4%)

**REGIONAL  
MANAGEMENT  
INC.**

**REGIONAL MANAGEMENT, INC.'S (RMI)  
COMMENTS ON GROUND RENT BILLS**

**HB 452/SB397: CONVERSION OF IRREDEEMABLE GROUND  
RENTS**

**Problem:** Definition of "Residential" does not conform to the definition currently in use in the ground rent statute. Large multiple family apartment developments are commercial properties for purposes of ground leases without clarifying language the definition is unclear.

**Solution:** Page 3 under (H) include the following language:

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.

**HB 458/SB 755: PROPERTY OWNED BY BALTIMORE CITY-  
EXPENSES-Vacant and Abandoned Property**

**Problem:** Implies that the reversionary interest holder has a duty to retrieve the property from disaster when no such obligation exists. RMI will be working with the City to craft amendments reflecting possible solutions listed below.

**Solution:**

- Make the City redeem for the statutory redemption rate
- Limit the recovery to 3 years back ground rent where the reversionary interest holder proves that they have made attempts to collect throughout the three previous 3 years.



## **HB 463/SB 396: REMEDY FOR NONPAYMENT OF GROUND RENT**

**Problem: Subordination of Ground Rent behind Mortgage and making costs of collection unrecoverable makes Ground Rent Worthless.**

When mortgage is in default bank can foreclose within 3 months. Ground rent owner must wait 6-12 months before they can begin to perfect debt/lien by which time the property is sold with out the delinquent ground rent being noticed.

**Solution: Keep Ground Rents Collectable as Priority Property Right**

- Institute a Ground Rent Master or Ombudsman system to monitor Ground Rent Ejectment cases from the date of filing.
- Make ground rent collection a personal judgement collection process.
- Mandate that all mortgage bankers escrow for and pay ground rents

## **HB 489/SB623- GROUND RENTS-REDEMPTION**

**General comments:** Bill takes reasonable approach to solution of actual problems. Ending the waiting period for redemption after sale is good.

**Problem: Right of First Refusal-Timing of Notice**

There is no advantage to notice prior to sale because ground lessee always can redeem. If notice is a prerequisite to sale the sale may be unreasonably held up while the notices go out, responses are awaited, and a redeeming ground lessee's deeds are prepared and payments clear.

**Solution:**

- 1) Change Notice to ground lessee of right to redeem from **before the sale** of the ground rent to **within 30 days after the sale**. Buyers of ground leases notify ground lessees of the change in ownership of the ground rent anyway, so the notice of right to redeem should be included with that notice.
- 2) Clarify that the costs of deed preparation, recording, etc. are the obligation of the ground lessee unless otherwise negotiated between the ground lessor and ground lessee. (option to negotiate for this could be included in the notice)

3) Redemption price should remain as stated under current law and include back ground rent with the 3 year limitation. Bulk sale price is not the price that ground lessee must pay since it reflects the buyer's risk of a mix of good and bad investments.

4) Require title companies to notify mortgage companies of the ground rent **when it is found** and mandate that mortgage company add the redemption amount to the mortgage at buyer/ground lessee's request or if it is disclosed at settlement, the buyer/ground lessee should be allowed to delay settlement in order to allow for an additional amount for the redemption price to be added to the current mortgage amount.

5) Send redemption right notice with every ground rent bill, every refinancing solicitation and application, every water bill, every Tax Assessment and Real Property Tax bill, all BGE bills and any other governmental notice sent to Maryland homeowners.

### **HB 502/SB398- Notices Regarding Ground Rents**

General Comments: A balanced Bill designed to raise awareness of Ground Lessees and assist them to successfully manage their responsibilities.

#### **Changes:**

- "Landlord" should include a manager of the ground Lessor's property
- Page 3, Lines 26-28 Notice should include the name and address of Manager for Ground Lessor if applicable.
- Page 4 Lines 19-20 and lines 28-30: Notice should include contact with SDAT for information on redemption as well as contact with attorney.
- Page 5 Lines 18-20 and 23-26 should include management company information
- The same notice required in a sales contract should be required to be sent with all Ground Rent Bills, all applications for mortgages, all refinancing applications, and title reports produced by Title Companies.

## **HB 580/SB622-Limitations of Actions-Registry of Ground Rents**

### **Problem:**

- 1) The registration system is duplicitous of current land records system.
- 2) The Bill's extinguishment provisions constitute a taking despite the opinion expressed by the Assistant Attorney General. The change from tracking Maryland's 20 year limitation for adverse possession of a real property interest to a contractual limitation of 3 years is such a drastic change in the property rights of reversionary interest holders (ground lessors) as to make it a taking.
- 3) The fiscal impact of the \$20 per ground rent registration fee is so disproportionate to the investment interest of the ground lessor that it is not only punitive, but is also an unreasonable governmental condition on the retention of the ground lessor's property right, thus making it a taking.
- 4) Registration provisions must be modified in order not to be duplicative of current property recordation system and to be over burdensome both to property owners and to SDAT and should include provision for managers of ground rents. Requirements should not be open-ended.

### **Solution:**

- 1) Retain the current 20 year extinguishment provision; retain current 3 year limitation on collectable back ground rent.
- 2) Registration provisions kick in at the first delinquency notice required to be filed under current law. Proof of registration required to accompany any notice of delinquency or Complaint filed for the collection of back rent either through civil judgement action or Ejectment actions. This will result in SDAT having information that any ground lessee can find once they receive initial notice of default and enable them to confirm the proper ground lessor to make payment to.
- 3) Registration of a Ground Rent as outlined above creates a rebuttable presumption that the amount of rent in the delinquent notice or suit is in fact owed by the ground lessee.
- 4)
  - Add to Page5, line 14- "or manager of ground rent"
  - Delete Page 5, line 15 -requirement number 3
  - Add to Page 5, line 18-19 person "or manager of ground rent"
  - Delete page 5 line 22 no need for deed