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GROUND RENT / A SUN FOLLOW-UP;
GENERAL ASSEMBLY

BYLINE: Laura Smitherman and Fred Schulte, sun reporters

BODY:

The Maryland General Assembly gave final approval yesterday to bills to create a ground rent registry and make it more difficult for residents to lose their homes over unpaid rent, essentially completing its overhaul of a Colonial-era property system that now faces gradual extinction.

The two measures are seen as having the most impact in a package of legislation making its way to Gov. Martin O'Malley, who has pledged to sign it. Nearly all of the bills received unanimous backing in the House and Senate, although the registry bill drew a handful of "no" votes.

Reforming ground rent rose to near the top of the legislative agenda this session after The Sun reported that ground rent owners had been awarded at least 521 homes in Baltimore in recent years over unpaid ground rent - sometimes as little as \$24.

Many other homeowners have had to pay thousands of dollars in fees to ground rent owners to keep their homes, even in cases when they didn't receive bills for the rent or couldn't figure out who their ground rent owner was, The Sun found.

Ground rent covers an estimated 115,000 homes in Maryland, most of them in Baltimore City.

"There are some very devious minds who think up these kinds of predatory schemes, and this was the latest one,"

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said Del. Carolyn J. Krysiak, a Baltimore Democrat and co-sponsor of many of the bills. "But we have enough laws on ground rent now to protect residents, and that's the important thing."

The bills, which would take effect at different times in the coming months, are designed not only to protect homeowners from exorbitant fees and ejection, but to phase out ground rent over time.

With procedural moves in the Senate and House of Delegates yesterday, the registry and ejection bills were readied for O'Malley's signature, as was a bill to extend low-interest loans to people who want to buy out the ground rent on their principal residence. Four other bills overcame final technical hurdles on Thursday. Last month, O'Malley enacted emergency legislation banning the creation of new ground rents at his first bill signing.

Ground rents, which run for 99 years and are renewable forever unless bought out by the homeowner, can be traced back to 1632, when King Charles I of England gave the second Lord Baltimore all of the land in what is now Maryland. Then, in the early 1900s, developers sold rowhouses with ground rents to make them more affordable.

But in recent years, as homes have risen in value, legislators and homeowners alleged that some ground rent owners took advantage of the system to obtain disproportionate rewards, often at the expense of poor and elderly residents.

Homeowners technically could still lose their homes over unpaid ground rent. But that process would be less profitable for ground rent owners.

Rather than filing an ejection lawsuit to seize the property, leaseholders will be able to file a lien against the home to recover their debt. Homeowners will have 45 days to challenge that action in court. The judge can award the prevailing party reasonable expenses and attorneys fees of \$500 or less.

Homeowners would be able to recover any equity remaining after the debts are repaid through a settlement or a foreclosure. Currently, a ground rent owner can seize a house through an ejection process, resell it and keep all of the proceeds.

Lawmakers said the lien remedy is more equitable than ejection and more in line with modern property rights. Ground rent owners would continue to be the first in line to be paid - ahead of mortgage holders - if a home is sold to cover debts.

Thomas C. Valkenet, a Baltimore real estate lawyer, said yesterday that he was surprised that lawmakers would allow ground rent owners to retain "super priority" status, though under the new law the homeowner would receive any equity over the amount of unpaid rent and fees.

"We'll see how it works in practice, but it doesn't smell good," he said, predicting that resolving many of the legal issues will likely "clog the courts for a long time."

Greg Cantori, executive director of The Marion I. and Henry J. Knott Foundation, which owns 1,600 ground rents, said he strongly favored the reform bills. "This will simplify things for everybody," Cantori said.

The bill requiring ground rent owners to register their rents or have them wiped out caused the only significant disagreement among lawmakers.

Legislators originally proposed charging ground rent owners a one-time fee of \$20 per ground rent, but reduced the fees to \$10 for the first rent recorded and \$3 for each additional rent after objections from ground rent owners.

"I have a constituent who is going to wake up the day after this bill gets enacted, and she's going to owe the state of Maryland \$45,000," said Sen. James Brochin, a Baltimore County Democrat. "I just don't think we should be doing this to people who play by the rules."

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And some lawyers said that extinguishing a ground rent that's not registered might not pass constitutional muster. Byron L. Warnken, a University of Baltimore law professor, compared it to a person losing the title to a vehicle over failing to register it with the state.

"That precludes me from saying the legislature dealt with this thing fairly," he said. "That makes me think they put their fingers up to the wind and did what is politically correct."

Ground rent owners have concentrated on offering amendments to the various bills rather than opposing them, said Gary R. Alexander, a lobbyist for the Ground Rent Owners Coalition.

Alexander said his group only wanted to be paid for their investments and would continue to press to have homeowners buy out the leases when they purchase a home or refinance a mortgage. He pointed out that most ground rent owners do not file ejectment lawsuits; court records show that a majority of the more than 4,000 cases filed in Baltimore Circuit Court since 2000 were filed by entities associated with four groups of individuals and families.

"There are many different kinds of owners, from people who rely on the leases for retirement income to banks and finance companies," Alexander said. "Our big issue has and will always be redemption. And we haven't reached that yet, so we're hopeful in the future that the legislature will address that."

Katherine Kelly Howard, general counsel for Regional Management Inc., which manages about 3,500 ground rents, said that the legislature should have taken more time to work out potential kinks, but that leaseholders did win some concessions.

"I have maintained all along ... that the ground rent system itself and the owners of ground rent were unfairly perceived throughout the process," she said, "but I do believe that there were certain legislators whose cooler heads prevailed."

Even as the legislature prepares to move the reform package to the governor, however, some ground rent owners continue to file ejectment lawsuits and to buy and sell leases in private transactions.

Court records show that ground rent investors have filed at least 145 ejectment lawsuits this year in Baltimore City Circuit Court. That pace is on par with the rate of filings from 2000 to 2004, before they spiked in the past two years. Many other cases from prior years are pending.

Because the new laws ending ejectment do not take effect until July 1, new cases can continue to be filed until then, Valkenet said.

Nor does the backlash against ground rent appear to be hurting the resale market for ground leases.

The Baltimore Life Insurance Co. reaped nearly \$900,000 from selling about 800 ground rents in late December, receiving 26 bids, said Paul Neumayer, vice president of corporate marketing.

"We were very surprised by the response," Neumayer said.

Legislators, many of whom said they were not aware of the extent of the problems with ground rent until recently, said they will continue to monitor the system.

"We need to let this work for a while to see if all of the kinks are out of the armor, or if we have created unintended kinks," said Del. Maggie L. McIntosh, a Baltimore Democrat and chairwoman of the House committee that shepherded ground rent bills through the assembly.

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Sun reporter Kelly Brewington contributed to this article.

archived coverage of ground rent, go to baltimoresun.com/groundrent

GROUND RENT BILLS

The General Assembly has passed a group of bills aimed at reforming Maryland's ground rent system. They include:

A measure intended to prohibit new ground rents.*

A ban on the use of ejectment, a process by which ground rent owners can take ownership of houses in cases where homeowners owe back ground rent.

Conversion of 19th-century ground rents to allow homeowners to buy them out.

A requirement that ground rent holders issue regular bills to homeowners.

The creation of a state ground-rent registry.

Financial help for homeowners seeking to buy out ground rents.

Limits on the amount of back rent an owner can collect for a property owned by the city of Baltimore.

A requirement that homebuyers be notified of the existence of a ground rent at the time of sale.

* Signed by Gov. Martin O'Malley

GRAPHIC: PHOTO(S)

Del. Dereck E. Davis, chairman of the Economic Matters Committee, reviews amendments with policy analyst Anne Marie Maloney.

Kim Hairston : SUN PHOTOGRAPHER

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