

“Maryland Real Estate Legislative Update 2014 - 2015”

(MD Course #064-2634-A)

(DC Course #12413)



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AFFORDABLE HOUSING AND TAXES

HB 223 - Property Tax Credit - Urban Agricultural Property - Applicability

STATUS: PASSED - Effective June 1, 2014

Authorizes local governments to provide a property tax credit to properties engaged in urban agriculture. Previously, the law only allowed local governments to give credits to properties engaged "exclusively" in urban agriculture. Now, local governments may grant tax credits to properties used for other purposes in addition to urban agriculture. The local governments may determine eligibility requirements for the properties. Urban agriculture may include crop production, certain environmental mitigation activities, produce stands and even certain recreational activities.

HB 510 - Sustainable Communities Tax Credit Program - Extension and Alteration

STATUS: Passed - Effective June 1, 2014

Extends the Sustainable Communities Tax Credit Program for another 3 years until June 30, 2017. The bill also authorizes up to \$4 million of the appropriated money for commercial projects to be used for "small commercial projects." A small commercial project would be limited to less than \$500,000 in rehabilitation expenditures and can be used for structures that have both commercial and residential rental purposes. Otherwise, these small commercial projects would operate much like the residential part of the tax credit program which has fewer fees.

HB 739/SE 602 - Maryland Estate Tax - Unified Credit

STATUS: PASSED - Effective January 1, 2015

Unifies the Maryland estate tax credit with the federal estate tax credit by January 1, 2019 by phasing it in over the next 5 years. The legislation sets the following schedule: 2015 - \$1.5 million credit; 2016 - \$2 million credit; 2017 -- \$3 million credit; 2018 -- \$4 million credit; and 2019 - fully unified with federal credit. Currently, the Maryland credit is only \$1,000,000 while the federal credit is over \$5,000,000.

HB 742/SB 600 - Regional Institution Strategic Enterprise Zone Programs

STATUS: PASSED - Effective June 1, 2014

Establishes a Regional Institution Strategic Enterprise Zone Program (RISE) which would allow higher education institutions and local government to create economic development districts around certain Maryland institutions. These districts would offer businesses a property tax credit, income tax credit, and certain income depreciation allowance to locate or expand in the district. Only higher education institutions demonstrating a commitment to economic development would be able to participate in this effort. The tax credits would operate much like the Enterprise Zone Tax credits.

HB 923/SB 596 - Income Tax Subtraction Modification - Mortgage Forgiveness Debt Relief - Extension

STATUS: PASSED - Effective July 1, 2014

Extends state tax relief for mortgage debt forgiveness for two years. Under current law, this tax benefit would have expired on June 30, 2014. It will now be extended to June 30, 2016. However, due to fiscal concerns, the legislation lowered the amount of debt forgiveness that may be tax free from \$1,000,000 to \$100,000 for individuals and from \$2,000,000 to \$200,000 for married couples. If the federal government extends the federal mortgage debt forgiveness bill, the federal limits will take precedence over the state limits in this bill.

HB 51/SB 66- Circuit Court Real Property Records Improvement Fund - Funding
STATUS: PASSED -Effective July 1, 2015

As introduced, this legislation would have made permanent the increase in the recordation fee enacted in 2011. That law increased the fee from \$20 to \$40 for three years. We worked with the Judiciary Committee so the increase remains only until 2019. In 2020, the Legislature must reauthorize the \$40 fee or it reverts back to \$20 per instrument.

HB 182 - Housing - Community Development Administration - Residential Mortgage Loans
STATUS: PASSED - Effective October 1, 2015

Creates additional flexibility for the Department of Housing and Community Development (DHCD) when guaranteeing loans for homeowners in Sustainable Communities. Sustainable Communities are designated growth areas in local counties that may be economically depressed, located near transit infrastructure or located near a military base. HB 182 allows DHCD to grant purchase and refinance loans to individuals that may exceed the income limitations of current DHCD mortgage products if the purchasers or homeowners live in a Sustainable community.

HB 1065/SB 190 –Sales and Use Tax – Taxable Price Accommodations
STATUS: PASSED - VETOED BY GOVERNOR

Requires accommodation intermediaries (*e.g.*, Expedia and Orbitz) to remit accommodation taxes to Maryland. MAR had initial concerns over the potential impact of the legislation on short term rentals. However, due to the way licensees transact short term rentals, the bill would not impose new taxes.

HB 1178 - Recordation and Transfer Taxes - Exemption - Purchase Money Mortgage or Purchase Money Deed of Trust
STATUS: PASSED - Effective May 12, 2015

Clarifies that homeowners who participate in a foreclosure avoidance program structured by a certified community financial development institution (CDFI) would not pay transfer and recordation taxes when the CDFI purchases their home from the original lender and then sells the home back to the consumer with a more affordable mortgage.

SB 766 - Agricultural Land Transfer Tax – Rate Determination
STATUS: PASSED - Effective June 1, 2015

Requires that the agricultural transfer tax be applied to the actual acreage being removed from agriculture rather than the entire acreage of property transferred when the property contains acreage intended for agricultural and non-agricultural use.

BREAK

REAL ESTATE BROKERAGE AND CONTRACTS

HB 274/SB 708 - Residential Property - Statute of Limitations for Certain Specialties and Motion for Certain Deficiency Judgments
STATUS: PASSED - Effective July 1, 2014

Reduces the amount of time (12 years to 3 years) that a deficiency judgment related to a foreclosure may be filed. Previously, lenders could wait 12 years before enforcing a deficiency judgment against a homeowner. The law applies to new deficiency judgments. However, the new law also limits existing deficiency judgments to either the former 12-year time limit or a July 1, 2016 cutoff, whichever occurs first.

HB 595 - Real Property - Foreclosure of Residential Property - Certified Community Development Financial Institutions

STATUS: PASSED - Effective April 14, 2014

Allows Certified Community Development Financial Institutions (CDFI) to purchase foreclosure properties and sell them back to the owner-occupant. The CDFI targets underwater homeowners and lowers their principal in order to reduce monthly payments by up to 40%. Exempts the transaction from recordation and transfer taxes.

HB 212 - Fairness for All Marylanders Act of 2014

STATUS: PASSED - Effective October 1, 2014

Adds "gender identity" to the list of protected classes under Maryland housing law. The bill also applies to employment and public accommodations. "Gender identity" is defined under state law as the "gender-related identity, appearance, expression, or behavior of a person, regardless of the person's assigned sex at birth." With this change, real estate agents and owners of property may not discriminate in the sale or rental of property to a person whose appearance may be different than their apparent gender. Current law makes exceptions for owners of properties with less than 5 units when the owner lives on the property and rents the other units.

SB 1106 - Business Occupations - Real Estate Appraisers - Criminal History Records Checks

STATUS: PASSED - Effective January 1, 2015

Requires that an applicant for an initial real estate appraiser's license and certification undergo a criminal background check through the Criminal Justice Information System Central Repository (CJIS). The State of Maryland was informed by the federal government that it would no longer recognize Maryland issued real estate appraiser licenses without this specific criminal background check.

HB 154- Maryland Home Builder Registration Act - Guaranty Fund - Claims

STATUS: PASSED - Effective July 1, 2015

Increases the maximum claim against the Builder Guarantee fund from \$5,000 to \$7,500.

HB 511/HB 1232/SB 851 - Real Property - Residential Property - Ground Leases

STATUS: PASSED - Effective July 1, 2015

Limits certain charges related to the collection and enforcement of ground rents. The legislation was introduced in response to the Maryland Court of Appeals case, *Maryland v. Stanley Goldberg, et al*, which invalidated a "lien remedy" for ground rents passed by the Legislature in 2007. HB 511 was the only bill that passed and it sets up a fee cap. If the ground lease tenant is delinquent but pays after the first notice of delinquency, the tenant pays only up to \$100 in additional fees and costs (plus the past due rent). If the ground lease tenant waits and pays after the second notice, the tenant must pay up to \$650 in fees associated with collection of the past due rent. If the tenant fails to pay and an action is filed in court, the tenant costs are limited to specific costs incurred by the owner and no more than \$500 in attorney fees.

HB 1028/SB 203 - Business Occupations and Professions - Real Estate Salespersons and Brokers - Formation of Business Entities and Payment of Commissions

STATUS: PASSED - Effective October 1, 2015

Permits real estate licensees to organize as any legal business entity with the consent of the real estate broker. Prior law limited real estate licensees to forming only two kinds of business entities: professional service corporations or limited liability companies.

HB 1056/SB 610 - Real Estate Brokers and Salespersons - Continuing Education Requirements
STATUS: PASSED - Effective October 1, 2015

Requires all real estate licensees to take the agency class every two years rather than every four years. The legislation also requires licensees who must take the broker supervision class to take that class every two years. This requirement would not increase the total number of hours for almost all licensees. However, a few licensees who have graduate degrees in law or real estate will now have to take the full 15 hours of CE rather than 7.5 hours under current law.

HB 1183/SB 649 - Real Property - Contract for Sale of New Home
STATUS: PASSED - Effective October 1, 2015

Allows the buyer or the homebuilder to terminate a contract if financing is not obtained and requires the return of the deposit money. MAR amended the bill to clarify that if a licensed real estate broker holds the deposit money, the broker must follow current real estate law regarding the return of the deposit money.

COMMON OWNERSHIP COMMUNITIES

HB 412/SB 229 - Real Property Condominium and Homeowners Associations - Disclosures to Purchasers on Resale of Unit or Lot - Limitation on Fees
STATUS: NOT PASSED

As passed by the House, limited the cost of resale packages to \$250 for condos and HOAs. The Senate, however, passed legislation that would have limited the cost of resale packages to \$100 but only applied that limitation to condos. Although the bill passed both the House and Senate, the bodies couldn't reach a compromise on the final day of session.

HB 602 - Real Property - Common Ownership Communities - Foreclosure of Liens
STATUS: PASSED - Effective October 1, 2014

Permits condominium and homeowner associations to include interest in the calculation of a lien to be filed.

BREAK

LAND-USE, PROPERTY RIGHTS, AND THE ENVIRONMENT

HB 11- Environment - Bay Restoration Fund - Authorized Uses
STATUS: PASSED - Effective June 1, 2014

Permits the Bay Restoration Fund septic account to be used to pay the principal on local government bonds issued to connect homes on septic to municipal wastewater facilities that use enhanced nitrogen removal. The law already permitted the funds to be used to pay for the direct cost of the connection.

HB 553 - Housing - Energy-Efficient Homes Construction Loan Program
STATUS: PASSED - Effective July 1, 2014

Creates a loan program for low-energy or "net-zero" (homes that generate as much power as they use). The program directs the Department of Housing and Community Development to focus the program on construction loans and allows the Department to enter into agreements with private sector partners to run and fund the program.

SB 170 - Budget Bill (Fiscal Year 2015)

STATUS: PASSED - Effective July 1, 2014

Among other provisions, directs the Maryland Department of Environment to report back to the General Assembly's budget committees regarding the amount of money spent to clean up the Chesapeake Bay, the results of those actions and the projected legislative and regulatory changes needed to meet water quality standards by 2025.

SB 172 - Budget Reconciliation and Financing Act of 2014

STATUS: PASSED - Effective June 1, 2014

Among other provisions, establishes that Carroll County and Frederick County may enter into an agreement with the Maryland Department of Environment (MDE) to pay for stormwater remediation costs through an alternative source of funding than a storm water fee ("rain tax").

SB 850 - Real Property - Prohibition on Acquiring Mortgages or Deeds of Trust by Condemnation and Related Study

STATUS: PASSED - Effective June 1, 2014

Maryland became the first state to pass a moratorium on seizing mortgages or deeds of trust through eminent domain. A private equity company is pushing local governments to seize performing, underwater mortgages so that it can refinance them. Both the Federal Housing Finance Agency and private commercial lenders have indicated that they would potentially stop lending in communities that seized mortgages - an action that would devastate the market for the vast majority of homeowners and buyers. SB 850 was amended to provide that the moratorium last for two years while the Department of Housing and Community Development (DHCD) conducts a study of this questionable use of eminent domain authority.

LAND-USE, PROPERTY RIGHTS, AND THE ENVIRONMENT

HB 4811/HB 874/ SB 42/SB 5 - Watershed Protection and Restoration Programs - Revisions

STATUS - PASSED - Effective July 1, 2015

There were many bills introduced on stormwater fees. Although they were similar, only SB 863 passed. It gives local governments the flexibility to pay for stormwater remediation required by the federal government through a stormwater fee or out of existing budgets. Local governments will be required to show the Maryland Department of Environment their plans to meet federal requirements, including the money set aside for projects. Under federal law, 10 Maryland counties must implement costly stormwater controls. In 2012, the Legislature required these counties to implement a stormwater fee that was popularly known as the "rain tax". That mandate is repealed by this legislation.

HB 509 - Environment - Statute of Limitations - Administrative Penalties

STATUS: PASSED - Effective October 1, 2015

Creates a 5 year statute of limitations on Maryland Department of Environment (MDE) administrative penalties. There is currently a statute of limitations on MDE civil and criminal penalties (which are typically 3 years). The 5 year limitation more closely follows federal statute of limitations.

HB 514/SB 258 - Maryland Commission on Climate Change

STATUS: PASSED - Effective June 1, 2015

Continues the Maryland Commission on Climate Change. The Commission originally was created by an Executive Order issued by the Governor. This legislation gives the Commission statutory authority to continue its work studying and preparing for the impacts of climate change. The bill

mandates participation from a number of interest groups, including representatives of the real estate industry.

SB 370 - Unmanned Aircraft Systems Research, Development, Regulation, and Privacy Act of 2015

STATUS: PASSED - Effective July 1, 2015

Establishes that only state government may enact a law to regulate the testing or operation of unmanned aircraft systems (drones). The bill also establishes a working group to identify general policies that should be implemented in relation to the use of these aircraft systems and report back to the General Assembly by the end of 2015.

PROPERTY MANAGEMENT

HB 73/SB 247 - Civil Actions - Personal Injury or Death Caused by Dog - Rebuttable Presumption

STATUS: PASSED - Effective April 8, 2014

Reversed the Court of Appeals decision on pit bulls so that landlords do not have "strict liability" for dog bites caused by their tenants. Instead, landlords will have the same legal liability (negligence) that they had before the Court of Appeals decision. Owners of dogs, however, are presumed liable unless they can show the victim triggered the dog's attack. Unlike the court opinion which targeted pit bulls, this bill applies to all breeds.

HB 249/SB 345 -- Real Property - Residential Leases - Interest on Security Deposits

STATUS: PASSED - Effective January 1, 2015

Requires landlords to return security deposits with an interest rate of 1.5 or a rate equal to the U.S. Treasury Daily Yield Curve Rate, whichever is higher.

SB 800 - Landlord and Tenant - Retaliatory Actions - Conditions for Relief

STATUS: PASSED - Effective October 1, 2014

Allows a tenant to file a complaint of "retaliatory action" against landlords even if the tenant has 3 judgments of possession for past due rent filed against them in the last year. Previously, the law barred a tenant from filing such a complaint regardless of whether it was related to the rent payment or not. The bill also would have allowed a tenant to file a retaliation complaint for up to 12 months. The Legislature eliminated that provision so that a retaliatory action can only be filed within 6 months of the tenant's action.

HB 54/SB 64 - Circuit Court Real Property Records Improvement Fund - Funding

STATUS: PASSED - Effective July 1, 2015

Implements a surcharge on most court cases in Maryland. For cases before the Court of Appeals and Special Appeals, the surcharge is \$11. For civil cases before the Circuit Court, the surcharge is \$30. For the District Court, the surcharge is \$3 for summary ejectment cases and \$8 for all other civil cases.

HB 782/SB 408 -- Real Property - Residential Leases - Interest on Security Deposits

STATUS: PASSED - Effective June 1, 2015 for deposits held after January 1, 2015.

Resolves conflicting language in the security deposit law. Requires landlords to return security deposits with an interest rate of 1.5 or a rate equal to the U.S. Treasury Daily Yield Curve Rate, whichever is higher. The new rate took effect on January 1, 2015 and applies to new and existing leases. For existing leases, the new interest rate would be calculated for the time the security

deposit is held after January 1, 2015. Previously mandated interest rates would be used to calculate the interest for the deposit held before January 1, 2015.

COMMERCIAL

HE 202/SB 186 - Clean Energy Loan Programs - Private Lenders - Collection of Loan Payments

STATUS: PASSED - Effective October 1, 2014

Authorizes local governments to allow private lenders to provide commercial properties with clean energy loans. These voluntary loans would be paid back through a surtax on the property tax bill.

HB 323/HB 323/SB 262 - Maryland Building Performance Standards – Modifications Energy Codes

STATUS: PASSED – Effective October 1, 2015

Directs the Department of Housing and Community Development to adopt innovative changes to state energy conservation codes as long as those changes meet or exceed the performance requirements for energy efficiency.

HB 430 - Commercial Law - Patent Infringement - Assertions Made in Bad Faith

STATUS: PASSED - Effective October 1, 2014

Protects business owners against "patent trolls" that send out frivolous demand letters alleging that the business has violated a patent. Often times the "patent trolls" have no relation to the specific patent in question (i.e., they do not manufacture the product or provide the service derived from the patent). The legislation creates a higher legal burden for these companies to establish a violation, and empowers business owners to seek damages for legal claims made in bad faith.

MISCELLANEOUS

HB 1403 - Homestead Exemption - Bankruptcy - Interest in Manufactured Home

STATUS: PASSED - Effective October 1, 2014

Clarifies that manufactured housing which is converted to real property will receive the homestead exemption under bankruptcy law like other residential real property.

“Defeated” indicates bills opposed by MAR. “Not Passed” indicates bills that either MAR did not oppose or bills that MAR opposed but which did not receive a vote.

*The information is derived from the MAR Legislative Summaries for 2014 and 2015.

Massachusetts nonprofit brings foreclosure relief program to Maryland **September 27, 2013|By Eileen Ambrose, The Baltimore Sun**

A Massachusetts firm that acquires foreclosed homes and sells them back to their former owners under more affordable loan terms is expected to announce Friday its expansion into Maryland.

This would be Boston Community Capital's first foray outside its home state.

"Maryland has a very big foreclosure problem," said Elyse Cherry, CEO of the community development financial institution.

Cherry is scheduled to announce the move at the 2013 Governor's Housing Conference in Baltimore.

The firm's Stabilizing Urban Neighborhoods Initiative was launched four years ago, using money largely raised from foundations and private investors. The group said it has provided more than \$62 million in mortgage financing that saved about 425 families from eviction.

"What we really did was to perfect the model in Massachusetts," Cherry said.

Boston Community works with struggling homeowners who are behind on their mortgage payments or being foreclosed upon. It negotiates with the lender to buy the house at market value, typically at a steep discount from what the homeowner paid. In Massachusetts, the average reduction is 40 percent, Cherry said.

The nonprofit then sells the property back to the homeowner and provides the 30-year fixed-rate mortgage. The interest rate is about 6.375 percent, which is higher than the national average this week of 4.32 percent, according to Freddie Mac.

That national average is for people with good credit, Cherry said, and her group is working with homeowners who usually can't find anyone willing to lend to them. Plus, Boston Community's cost of funds is about 4 percent, a much higher interest rate than that of national banks, she said.

Homeowners undergo a financial analysis to make sure they can afford the new mortgage. They must have a stable income and show that they fell behind on their old mortgage because of a hardship, the group said. And they need to make a \$5,000 down payment on the house.

Mortgage payments are made every two weeks, instead of monthly, and a portion of that money is set aside for the homeowner in an account to help with home repairs or pay down principal, Cherry said.

"It doesn't work for everybody," she said.

Homeowners seeking more information can call 855-604-4663, email the group at info@sunhomehelp.org or visit the website at sunhomehelp.org.

"It's a really solid program. We are really happy to see them come," said Marceline White, executive director of the Maryland Consumer Rights Coalition. "It keeps people in their homes and gets them out of their toxic home loans that we saw proliferating in 2007 and 2008."

Keeping houses occupied is also good for neighborhoods, preventing homes from becoming dilapidated, she said.

"We have too many of our residents who are struggling with housing issues," said Gerard Joab, executive director of the St. Ambrose Housing Aid Center in Baltimore. The Boston Community program "won't be for everybody, but I do think it will help residents of our city who fall within the purview of their program."

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