

"Maryland Real Estate Legislative Update 2016 - 2017"

(MD Course #064-2634-A)
(DC Course #12413)



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AFFORDABLE HOUSING AND TAXES

HB 276/SB 137- Income Tax Credit - Preservation and Conservation Easements

STATUS: PASSED - Effective July 1,2016

Expands eligibility for the land conservation and preservation tax credit to easements donated to the Maryland Department of Natural Resources (DNR). Allows individuals who are members of pass-through entities -- such as an S corporation, LLC, or partnership - to claim the credit. The credit is limited to \$5,000 and the total number of credits for pass-through entities cannot exceed \$200,000 worth of credits per year.

HB 378/SB 322- Homeowners' Property Tax Credit Program - Eligibility Awareness Campaign

STATUS: PASSED - Effective October 1, 2016

Requires the State Department of Assessments and Taxation (SDAT) to provide the Comptroller with a list of residential homes valued at \$300,000 or less. The Comptroller is tasked with identifying those owners who may be eligible for the homeowner property tax credit and sending that information to SDAT so those owners may be contacted about their potential eligibility. Notices would be sent each August starting in the summer of 2017.

HB 488- Property Tax - Property Transferred to New Owner - Appeals

STATUS: PASSED - Effective July 1, 2016

Requires the State Department of Assessments and Taxation (SDAT) to hold a hearing within 90 days after a written property tax appeal is filed or a deed is recorded for a transfer to a new owner.

HB 833/SB 306- Agricultural Land Transfer Tax - Calculation

STATUS: PASSED - Effective June 1,2016

Reverses a Maryland Court of Appeals decision that ruled a 25 agricultural transfer tax surcharge was part of the "total rate of tax" levied on the property and subject to a specific tax cap. The legislation now applies the cap to only the state and local transfer tax rates and not the 25 surcharge. As a result, some local transfer tax payments for agricultural property sales could increase.

HB 939/SB 759- Sustainable Communities Tax Credit - Alteration and Extension

STATUS: PASSED - Effective June 1, 2016

Renames the Sustainable Communities Tax Credit as the Heritage Structure Rehabilitation Tax Credit. Allows the credit to be applied to expenses paid by federal grants. Eliminates the requirement that the project be located in "sustainable community." Creates a 60-day time frame to announce the awarding of commercial credits. Imposes stricter sanctions for projects that do not pay the application fee. Extends the payment of tax credits through 2022. Otherwise the credits would have terminated in 2017.

HB 1363- Property Tax- Appeals - Provision of Information to Taxpayers

STATUS: PASSED - Effective July 1, 2016

Requires the State Department of Assessments and Taxation (SDAT) to provide the assessment worksheet and sales analysis relating the property in question at least 14 days

prior to a hearing before the supervisor of assessments. If the information is not provided by that time, the person seeking the hearing may reschedule the hearing. Also, requires property comparables to be given to a person seeking a hearing before the Property Tax Assessment Appeals Board (PTAAB) at least 30 days before the hearing. If the information is not provided within that time, the person seeking the hearing may reschedule it.

HB 83/HB 1033- Income Tax - Subtraction Modification - Discharged Student Loan Debt

STATUS: PASSED - Effective July 1, 2017 and applicable to tax years beginning after December 31,2016

Both bills expand favorable tax treatment for discharged student debt. However, only HB 83 was passed. Under the old law, only discharged debt resulting from death or permanent disability was tax exempt, now all discharged student debt is exempt from state taxes.

HB 363/SB 11- Recordation and Transfer Taxes - Exemptions - Property Conveyed from Sole Proprietorship to Limited Liability Company

STATUS: PASSED - Effective July 1, 2017

Exempts from recordation and transfer taxes the transfer of property from a sole proprietorship to a limited liability company if the owner is the same. Maryland law exempts many of these "paper transfers" from real estate taxes and HB 363 expands the list of exempt transactions. The legislation also clarifies that the transfer would have to meet the "controlling interests" test to be exempt.

HB 592/SB 915- Real Property Tax - Assessment Appeals Process - Dwellings

STATUS: PASSED - Effective January 1,2018

Requires the State Department of Assessments and Taxation (SDA T) to hold an assessment appeals hearing within 120 days of receiving the property owner's appeal. The legislation also requires SDAT to issue a decision on the appeal within 60 days for a supervisor issued opinion or 30 days for an appeal board issued decision.

HB 644/SB 180- Independent Living Tax Credit Act

STATUS: PASSED - Effective July 1,2017 and applicable to tax years beginning after December 31,2017

Establishes a tax credit against state income taxes for 50 of the qualified expenses related to home renovation that provides accessibility and universal visitability features. The credit is limited to the lesser of \$5,000 or the state tax liability of the individual that year and may not be carried over to future tax years. In addition, the state may not award more than \$1 million worth of credits in a single year. Individuals will have to apply by June 1st to the Maryland Department of Housing and Community Development (DHCD) to be approved for the credit.

HB 1155/SB 367- Income Tax - Subtraction Modification - Mortgage Forgiveness Debt - Relief

STATUS: PASSED - Effective July 1, 2017 and applicable to the tax years 2017-2018

Provides mortgage debt forgiveness tax relief to Marylanders. If the Congress extends federal tax relief for mortgage debt forgiveness, the state laws follows the federal law. However, if Congress fails to pass mortgage debt forgiveness tax relief this year, then Marylanders will be

able to deduct up to \$100,000 in forgiven debt for individual filers and up to \$200,000 in forgiven debt for a couple filing a joint return. The deduction applies only against state income taxes.

**HB 1234- Property Tax - Credit for Retired Military Service Members - Eligibility
STATUS: PASSED - Effective June 1,2017 and applicable to all tax years after June 30, 2017**

Broadens existing property tax credit authority for local governments that now authorize a credit up to 20 of the local property tax for members of the U.S. Armed Forces. This bill includes the following new categories: the military reserves; the National Guard; and the uniformed services of National Oceanic and Atmospheric Administration (NOAA) and the Public Health Services.

**HB 1323- Property Tax - Credit for Revitalization Districts
STATUS: PASSED - Effective June 1,2017 and attributable to tax years after June 30, 2017**

Authorizes local governments to adopt tax credit programs for homeowners of dwellings in a revitalization district if the homeowner makes a significant improvement to the home. If a local government implements the program, the credit would exempt taxes on the difference in the value of the property before and after the improvements have been made.

**HB 1402- Property Tax Appeals - Payment of Refunds - Deadline and Notice
STATUS: PASSED - Effective October 1, 2017**

Requires local tax collectors to provide a refund within 30 days after being notified by a property tax appeal authority that a homeowner's assessed value of the property was reduced.

**SB 108- Property Tax Credit - Erosion Control Measures - Nonstructural and Structural Shoreline Stabilization
STATUS: PASSED - Effective June 1, 2017 and applicable to tax years after June 30, 2017**

Expands the authority granted to local governments to approve tax credits for erosion control. Current law permits local governments to approve laws granting property tax credits against the cost of installing erosion control structures or devices. SB 108 expands the tax credit authority to non structural erosion controls like living shorelines.

**SB 261- Property Tax Credit - Residential Property Damaged by Natural Disaster
STATUS: PASSED - Effective June 1, 2017 and applicable to tax years after June 30, 2017**

Expands the authority granted to local governments to approve a property tax credit for residential properties damaged by a natural disaster. Previously, the law only allowed a credit for damage caused by floods or sewage.

REAL ESTATE BROKERAGE AND CONTRACTS

HB 460/SB 381- Housing and Community Development - Community Development Administration - Student and Residential Mortgage Loans

STATUS: PASSED: Effective July 1,2016

Establishes a mortgage loan program in the Maryland Department of Housing and Community Development (DHCD) that will payoff a portion of the buyer's student debt and include it in the underlying mortgage. The program will be limited to DHCD-owned foreclosed properties so that DHCD can provide a seller's concession to keep the mortgage less than 100 of the property value. The program will initially be limited in scope.

HB 747/SB 539- Real Estate Brokers - Licensure Requirement - Exemption for Lawyers

STATUS: PASSED - Effective October 1,2016

Narrows the exemption for attorneys in the Maryland Real Estate Brokerage Act. In limited cases, attorneys did not have to hold a real estate license to share a real estate commission. This legislation narrowed that requirement further by stating that lawyers may only share in the commission, if: the lawyer is licensed in Maryland; the lawyer provides real estate brokerage services to another person; and those services are in the course of the lawyer's regular practice of law.

HB 920/SB 509- Real Property - Actions to Quiet Title

STATUS: PASSED - Effective October 1,2016

Creates a statutory process to quiet title in Maryland. Currently, the process to quiet title can differ among the counties. This legislation makes uniform rules about jurisdiction, the required notice of parties, and the rights of defendants and other parties who may have previously filed claims to the property.

HB 989/SB 815- Residential Real Property - Sales Contracts - Notice of Water and Sewer Charges

STATUS: PASSED - Effective October 1, 2016

Requires home sellers to inform homebuyers about any charges they pay for the installation of water and sewer infrastructure (so called "front-foot" fees). The bill requires sellers to inform buyers in the contract: whether a fee exists; the amount of the fee; and the number of years that remain to complete the payment. If a contract does not contain this information, a buyer may terminate the contact before settlement. In addition, if the buyer does not find out until after moving into the home, the seller becomes liable for payment of the remainder of the fee.

HB 1448/SB 968- Business Regulation - Home Builder Registration - Fees

STATUS: PASSED -Effective October 1, 2016

Increases the homebuilder registration fees. The initial registration fee increases from \$600-\$800. The renewal fee increases according to the number of building permits issued to the builder the year before. For 1-10 permits, the fee increases from \$300-\$400. For 11 to 74 permits, the fee increases from \$600-\$800. For 75 or more permits, the fee increases from \$600 to \$1,200. For builder sales representatives, the fee increases from \$200 to \$300.

HB 1453/SB 824- Real Estate Licensees - Verification of Service Provider Licensing Status

STATUS: PASSED - Effective October 1,2016

Narrows the regulation requiring real estate agents to verify the license status of certain service providers referred to consumers. The regulation required real estate agents to verify the license status of: mortgage lenders; mortgage brokers; real estate appraisers; home improvement contractors; home inspectors; plumbers; electricians; and heating, ventilation, air-conditioning and refrigeration contractors. The bill requires real estate agents to only verify the license status of home improvement contractors. The bill also requires the license to be verified only once per year rather than every time a referral is made.

HB 1469/SB 828- Real Estate Brokers - Agency Relationships in Residential Real Estate Transactions - Disclosure and Consent Requirements

STATUS: PASSED - Effective October 1,2016

Simplifies the disclosure law by focusing disclosure on unrepresented consumers. The current law requires licensees to provide agency disclosure to consumers who are already represented by other licensees and have already had agency information provided to them. The proposed changes would eliminate some of this redundant disclosure except when a consumer is not represented by an agent in the transaction. In addition, the proposed changes would simplify agency disclosure at open houses by requiring a seller's agent to post information about the agent's representation rather than giving out a disclosure form to buyers that visit the property. Finally, the bill eliminates the "statutory presumption" of buyer agency so that there is only one category of "buyer agent."

HB 26/SB 247- Real Property - Notices of Foreclosure Sale and Postponement or Cancellation of Foreclosure Sale

STATUS: PASSED - Effective October 1,2017

Clarifies that Homeowners Associations (HOAs) and condominium Council of Unit Owners (Council) receive notice of a foreclosure sale if the HOA or Council have a recorded statement of lien. It also requires notice to be given to them and the owner of the property if the sale is postponed.

HB 44- Residential Property - Ground Lease Registration Forms - Contact Information Option

STATUS: PASSED - Effective October 1, 2017

Requires the State Department of Taxation and Assessments (SDAT) to change the ground lease registration forms so that holders may include their telephone number and email address. Ground rent holders would not be required to provide an email, but would have the option.

HB 138/SB 6- Occupational and Professional Licensing Boards, Commissions, and Regulatory Entities - Notifications of Applicants, Licensees, Registrants, and Permit Holders

STATUS: PASSED - Effective October 1, 2017

Authorizes the Real Estate Commission (REC) and other Boards and Commissions under the Department of Labor, Licensing and Regulation to notify licensees through email rather than regular mail. The bill grants authority to the REC to send renewal notices by regular mail or email. Currently, the REC communicates through both regular mail and email. The bill also provides that if the REC receives a message that the email was undeliverable, the REC would then have to contact the licensee by regular mail.

HB 659/SB 823- Task Force to Study Tax Sales in Maryland
STATUS: PASSED - Effective June 1, 2017

Creates a Task Force to Study Tax Sales in Maryland. The Task Force is charged with evaluating the impact of tax sales in Maryland, the differences in enforcement between the local governments, and alternatives to tax sales. The Task Force is required to make recommendations to the Governor and General Assembly on or before December 1, 2017.

HB 702/SB 1033- Residential Property - Vacant and Abandoned Property - Expedited Foreclosure

STATUS: PASSED - Effective October 1, 2017

Creates an expedited foreclosure process for vacant and abandoned property. If a secured party determines that a property was vacant and abandoned using 11 statutory indicia, the secured party could immediately petition the circuit court to proceed with the foreclosure. If the court grants the motion, the foreclosure may be docketed and the foreclosure is exempt from mandatory mediation and other foreclosure procedures. A homeowner would have 20 days to challenge the order of the court starting on the date the homeowner is served notice.

HB 760- State Real Estate Commission - Real Estate Brokerage Services - Duties and Obligations

STATUS: PASSED - Effective October 1, 2017

Permits real estate licensees to discuss other properties at an open house if the licensee has the written consent of the seller.

HB 1048/SB 875- Residential Property - Notice of Foreclosure
STATUS: PASSED - Effective October 1, 2018

Requires a pre-foreclosure notice to the the Department of Labor, Licensing, and Regulation (DLLR). The entity filing foreclosure is charged with providing the notice within 7 days of filing with the court. The notice must detail information about the property including whether it is vacant. This pre-foreclosure list may be accessed by local and state government. A person residing on the same block or a Homeowners Association or Condominium community may also request information from their local government about specific property from the pre-foreclosure list. This pre-foreclosure list would be in addition to the list of foreclosed properties DLLR is already required to maintain.

COMMON OWNERSHIP COMMUNITIES

HB 1192/SB 816- Real Property - Condominiums and Homeowners Associations - Resales - Disclosures and Fees

STATUS: PASSED - Effective October 1, 2016

Sets in law the maximum fee that can be charged for HOA and Condo resale packets, and then limits how much those fees can increase in future years. Although the legislation will not likely lower many fees, it will slow how quickly these fees can increase in the future. In general, the fees cannot exceed \$250. However, if an inspection is required of the property, an inspection fee can be added and cannot exceed \$100. If a rush order is placed, a "rush fee" can be added and cannot exceed \$50 if delivery is requested within 14 days or \$100 if the delivery is requested within 7 days. Finally, the fees in the legislation may only be increased every two years by no more than the rate of the Consumer Price Index (CPI-U).

HB 34- Real Property - Homeowners Associations - Resale of Lot - Inspection Fees **STATUS: PASSED - Effective October 1, 2017**

Establishes a maximum fee that Homeowners Associations may charge to inspect a lot. Legislation was passed last year that set the maximum fee that can be charged for HOA and Condo resale packets, but never established a fee cap for ROA inspections. HB 34 permits an inspection fee of up to \$50 if an inspection is required by the governing documents of the Homeowner Association. This is in addition to ROA fees already permitted under law.

HB 789- Condominiums and Homeowners Associations - Amendment of Governing Documents

STATUS: PASSED - Effective October 1, 2017

Lowers the minimum number of votes needed to approve changes to bylaws for condominiums and homeowners' associations if at least 60 of the members in "good standing" approve the change. A property owner may not be more than 90 days in arrears in the payment of community assessments to be considered in "good standing." Additionally, a community's bylaws could require that a bylaw change be approved by less than 60, but could not require approval by a greater percentage.

LAND-USE, PROPERTY RIGHTS, AND THE ENVIRONMENT

HB 90- On-Site Sewage Disposal Systems - Operation and Maintenance Costs - Low-Income Homeowners

STATUS: PASSED - Effective October 1, 2016

Expands the use of the septic grant money to also cover the cost of up to 50 of maintenance contracts for up to 5 years. To be eligible a homeowner would have to be qualified as low-income by either the Maryland Department of Environment or a local government.

HB 686/SB 559- Department of Housing and Community Development - Strategic Demolition and Smart Growth Impact Fund - Establishment

STATUS: PASSED - Effective July 1, 2016

Creates a fund which may only be used to provide grants and loans to government agencies

and community development organizations for demolition, land assembly, architecture and engineering, and site development for revitalization projects in an area designated as a sustainable community. Most of the allocated money will go to Baltimore and a smaller portion to the rest of the state.

**SB 1047- Task Force to Study Recording Deeds for Victims of Domestic Violence
STATUS: PASSED - Effective July 1, 2016**

Creates a task force to study how to protect the identity of certain victims of domestic violence when the property records list publically the identity of the person. A member of the Maryland Association of REALTORS® will be a task force participant. The Task Force is required to report its findings by December 2017.

HB 155- Maryland Agricultural Land Preservation Foundation - Easement Termination

STATUS: PASSED - Effective October 1, 2017

Clarifies that if an agricultural easement has been terminated by a local government, the Maryland Agricultural Land Preservation Foundation must also approve or deny the request. However, if the local government denies the request for termination, MALPF is not required to consider the termination request. Clarifies that an owner repurchasing an easement has 30 days to elect repurchase and 180 days to complete the repurchase.

**HB 384/SB 343- Bay Restoration Fund - Eligible Costs - Expansion
STATUS: PASSED - Effective July 1, 2017**

Permits the Maryland Department of Environment to use Bay Restoration Fund (BRF) money to upgrade municipal wastewater treatment plants that include an upgrade to a Biological Nutrient Reduction facility.

HB 617/SB 29- Natural Resources - Forest Conservation Act - Forest Conservation Thresholds and Afforestation and Reforestation Requirements

STATUS: PASSED - Effective June 1, 2017

Clarifies that local governments with planning and zoning authority may adopt forest conservation thresholds and other requirements that are more stringent than state law. The current law already provided that authority even though no local government had implemented it.

**HB 1168/SB 957- Counties and Municipalities - Land Bank Authorities
STATUS: PASSED - Effective October 1, 2017**

Expands the authority for Land Banks to the counties and expands the type of properties permitted in the Land Banks. The legislation will provide avenues for local government to return blighted properties back to the market.

PROPERTY MANAGEMENT

HB 849/SB 182- Public Safety - Rental Dwelling Units - Carbon Monoxide Alarms

STATUS: PASSED - Effective October 1, 2016

Requires carbon monoxide detectors on each level of a rental unit and outside the sleeping areas starting April 1, 2018. The detector may be a combined smoke detector carbon monoxide detector.

HB 1059- Landlord and Tenant - Security Deposit - Contents of Lease

STATUS: PASSED - Effective October 1, 2016

Requires the receipt for the security deposit to be included in the written lease.

HB 133- Environment - Reduction of Lead Risk in Housing - Notification of Elevated Blood Lead Level

STATUS: PASSED - Effective October 1, 2017

Lower the trigger level from 15ug/dl to 10ug/dl for children with elevated blood lead levels. The trigger level prompts notification to parents and property owners as well as more state assistance to local governments for earlier case management.

HB 26 I- Public Utilities -Termination of Service to Multifamily Dwelling Unit - Notification to Property Owner or Property Manager

STATUS: PASSED - Effective October 1, 2017

Authorizes a property manager or owner to receive notice from an electric or gas company when a tenant's account will be terminated for nonpayment. To receive the notice, the property manager or owner must first receive the consent of the tenant and that consent must be communicated to the public service provider.

HB 8511SB 49- Landlord and Tenant - Military Personnel - Limitation on Liability for Rent

STATUS: PASSED - Effective October 1, 2017

Provides that service members or their spouses can break leases if: they have permanent or temporary change of station orders; are required to move into barracks; or are released from active duty.

COMMERCIAL

HB 939/SB 759- Sustainable Communities Tax Credit - Alteration and Extension

STATUS: PASSED - Effective June 1, 2016

Extends and renames the Sustainable Communities Tax Credit. The newly named Heritage Structure Tax Credit would be extended through Fiscal year 2022. The bill also removes the restriction that small commercial projects be undertaken in "Sustainable" communities allowing more small businesses access to this credit.

HB 1226/SB 597- Recordation and Transfer Taxes - Transfer of Controlling Interest - Exemptions

STATUS: PASSED

Exempts from transfer and recordation taxes the transfer of a controlling interest between certain LLC subsidiaries, such as: subsidiaries from the same LLC; and a transfer between an existing subsidiary LLC and a new LLC. The transfer of the controlling interests must be to the same ownership.

HB 1/SB 230- Labor and Employment - Maryland Healthy Working Families Act
STATUS: PASSED - Effective January 1, 2018

Requires employers of 15 or more employees to provide paid sick leave equivalent to 1 hour for every 30 hours worked not to exceed 40 hours in a year. The bill exempts most independent contractors, including real estate agents (not employees of a real estate firm). There are other limitations on the number of hours an employee must work to qualify and limits on how much leave may roll over from year to year.

MISCELLANEOUS

SB 285- Maryland Home Improvement Commission - Subcontractor Licensing Requirement - Repeal

STATUS: PASSED - Effective July 1, 2016

Repeals the subcontractor license under Maryland law. To work for a contractor under the Maryland Home Improvement Commission license, a worker had to be either a licensed contractor or subcontractor. However, the law as it applied to subcontractors was not enforced and very few subcontractor licenses existed. SB 285 still requires a license for any contractor working for another person but gives the contractors additional flexibility on who they hire to perform work.

HB 115/SB 183- Mold Remediation Services Providers - Licensure and Program Evaluation

STATUS: PASSED - Effective October 1, 2017

Extends the termination of the Mold Remediation Licensure Program from July 1, 2013 to July 1, 2019. The Mold Remediation Licensure Program was first authorized in 2008 but never funded. The program was intended to provide a license and regulate any company conducting mold remediation services. With passage of HB 115, state government has until 2019 to fund a program, and companies are permitted to operate without a license until then.

HB 140- State Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors - Supervision of Appraiser Trainees
STATUS: PASSED - Effective October 1, 2017

Conforms state requirements for the initial licensure and/or certification of real estate appraisers with the federal rules under the Appraiser Qualifications Board (AQB). The AQB sets standards for the education and training of real property appraisers and requires that trainees be supervised by certified appraisers and not by licensed appraisers as cited under Maryland statute. State appraiser licensing programs must conform to the AQB requirements.