

“Maryland Real Estate Legislative Update 2018-2019”

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AFFORDABLE HOUSING AND TAXES 2018

HB 43 – Income Tax – Subtraction Modification – Perpetual Conservation Easements STATUS: PASSED – Effective July 1, 2018 for taxable years after December 31, 2017 Creates a deduction against state income taxes for the first \$50,000 in compensation received by a Maryland taxpayer for the sale of a perpetual conservation easement.

HB 198 – Inheritance Tax – Perpetual Conservation Easement – Farming Purposes – Exemption STATUS: PASSED -- Effective July 1, 2018 for taxable years after December 31, 2017 Slightly expands exemptions under the inheritance tax. Under current law, lineal descendants, are not subject to the inheritance tax unlike non-direct (collateral) descendants. HB 198 allows nieces and nephews to be exempt from the tax as well if the property is used for farming purposes and is subject to a perpetual conservation easement.

HB 305/SB 158 – Homestead Property Tax Credit Program – Eligibility Awareness STATUS: PASSED – Effective October 1, 2018 Directs the State Department of Assessments and Taxation (SDAT) to identify homeowners who may be eligible for the Homestead Property Tax Credit Program and provide them information about how to apply with each assessment notice.

HB 308/SB 646 – Maryland Estate Tax – Unified Credit STATUS: PASSED – Effective July 1, 2018 Freezes the value of the estate tax credit in Maryland at \$5 million. The Maryland estate tax was scheduled to be unified with the federal estate exemption in 2019. The federal exemption was increased to over \$11 million for individuals and \$22 million for joint filers in last year's tax reform legislation.

HB 365/SB 184 – Income Tax – Personal Exemptions – Alteration STATUS: PASSED – Effective July 1, 2018 Allows Maryland taxpayers to continue to claim personal exemptions under state law. This helps Maryland taxpayers who lost the ability to deduct personal exemptions under the tax reform legislation passed by Congress.

HB 570/HB 1190/SB 318 – Income Tax – Standard Deduction and Cost-Living Adjustment STATUS: PASSED - Provides a small increase in the standard deduction for Maryland taxpayers (\$250 for individuals and \$500 for joint filers). The legislation also creates a cost-of-living adjustment for the deduction. The bill is expected to protect 80% of Maryland taxpayers from paying more state taxes due to the impact of federal tax reform legislation.

HB 593 – Income Tax – Student Loan Tax Credit STATUS: PASSED – Effective July 1, 2018 for taxable years after December 31, 2017 Expands the current Student Loan Debt Relief Tax Credit to include graduate school debt as well as undergraduate school debt. A Maryland taxpayer with at least \$20,000 in loan debt and at least \$5,000 in outstanding debt may apply for a tax credit of up to \$5,000 each year.

HB 923 – Environment – Water and Sewer Service STATUS: PASSED – Effective October 1, 2018 Enables local governments and water authorities to create assistance programs (e.g. payment plans and donation plans) for individuals struggling to pay water and sewer bills.

Authorizes the local government and the water utilities to disconnect service when a property is determined to be vacant or unfit for human habitation.

HB 990 – Homestead Property Tax Credit – Notification on Acquisition of Property STATUS: PASSED – Effective July 1, 2018 Requires the State Department of Assessments and Taxation (SDAT) to mail notice about the Homestead Property Tax Credit to individuals who purchase a home. Although every homebuyer may fill out a Homestead Property Tax Credit application at closing, not all homebuyers complete the application.

HB 1112/SB 951 – Tax Sales – Vacant and Abandoned Property STATUS: PASSED – Effective October 1, 2018 Enables a local government to release any liens to certain vacant and abandoned property if the transferee can return the property to productive use within a “reasonable time.” Local governments may also withhold from tax sale certain property for redevelopment purposes if the property is vacant or unfit for habitation.

HB 1465/SB 952 – Tax Sales – Homeowner Protections STATUS: PASSED – October 1, 2018 Authorizes local governments to withhold residential property from a tax sale if the taxes owed on the property are less than \$750. Currently the law for most counties only provides this authority for property which owes less than \$250. SB 952 also requires the local government to give the homeowner advice about where to access counseling to avoid tax sale and how to take advantage of state tax programs to minimize the amount of property tax payable on the property.

HB 1660 – Property Tax – Assessment Records of Real Property and Reassessment After Appeal STATUS: PASSED – Effective October 1, 2018 If a court or appeals body reduces the property assessment, HB 1660 requires the State Department of Assessments and Taxation (SDAT) to describe in each property record why the reduction was ordered.

SB 10 – Property Tax Assessments – Physical Inspection of Property STATUS: PASSED – Effective June 1, 2018 Clarifies when a physical inspection of a property is conducted by the State Department of Assessments and Taxation (SDAT). SB 10 targets physical inspections to specific types of valuations such as: new homes; renovations; targeted resales; and when an owner requests an inspection.

AFFORDABLE HOUSING AND TAXES - 2019

HB 20/SB 344 – State Agricultural Land Transfer Tax – Alternation of Nonagricultural Use Reduction and Exemptions STATUS: PASSED – Effective July 1, 2019 The prior law eliminated the agricultural transfer tax five years after a property changed its agricultural property tax assessment and was sold for development. Under this bill, the transfer tax exemption each year steps up to a maximum of 65% after the change in the agricultural property assessment.

HB 380/SB 265 – Income Tax Subtraction Modification – Mortgage Forgiveness Debt Relief – Extension STATUS: PASSED – Effective June 1, 2019 Eliminates state income taxes on most forgiven mortgage debt. If the federal government passes mortgage debt tax relief, the state would follow federal tax rules. Otherwise, the state limits ax relief to \$100,000 or \$200,000

of forgiven debt depending on the whether the taxpayer filed individually or as a couple. Importantly, the bill makes this a permanent state tax deduction.

HB 396 – Property Tax – Optional Installment Payment Schedule STATUS: PASSED – Effective June 1, 2019 and applicable to tax years after June 30, 2019 Authorizes municipal and county governments to implement additional installment payments for property taxes. Current law now defaults to a semi-annual payment unless a taxpayer chooses otherwise.

HB 406 – Wetlands and Waterways Program – State-Owned Lakes – Structural Shoreline Stabilization STATUS: PASSED – Effective October 1, 2019 Specifies that the application fee for a structural shoreline stabilization project on or adjacent to a State-owned lake may not exceed \$250. The bill also requires the Department of Environment, in conjunction with the Department of Natural Resources, to identify up to three structural stabilization practices that may be implemented.

HB 1209 – Property Tax – Collection of Unpaid Taxes and Tax Sales STATUS: PASSED – Effective January 1, 2020 Creates a “Tax Sale Ombudsman” within the State Department of Assessments and Taxation (SDAT). The Ombudsman would assist homeowners with understanding their rights when delinquent on their property taxes and would assist in connecting homeowners with resources to avoid tax sale.

HB 1339/SB 654 – Property Tax Credit – Elderly Individuals – Eligibility STATUS: PASSED – Effective June 1, 2019 and be applicable to tax years after June 30, 2019 Alters the local option property tax credit for elderly individuals by removing the requirement that the individual must have lived in the same dwelling for at least the preceding 40 years. Under the bill, local governments may designate a residency requirement of less than 40 years.

BREAK

REAL ESTATE BROKERAGE AND CONTRACTS – 2018

HB 64 – Business Occupations – Real Estate Appraisers – Payment by Real Estate Appraisal Management Companies STATUS: PASSED – Effective October 1, 2018 Requires an appraisal management company to pay an appraiser within 45 days after completion of a valuation. The law previously required payment within 60 days. The bill also permits an administrative sanction for violating this requirement.

HB 200 – State Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors – Membership STATUS: PASSED – Effective October 1, 2018 Clarifies that home inspectors appointed to the State Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors, need not be affiliated with a trade association.

HB 255/HB 633/SB 578 – Secretary of State – Address Confidentiality Programs – Shielding of Real Property Records STATUS: PASSED – Effective January 1, 2019 Establishes a process to shield the property records of a homebuyer who is a victim of domestic

abuse or human trafficking. The Maryland Secretary of State would oversee the process to protect the confidentiality of the victim and manage access to the records in certain cases.

HB 279 – Housing and Community Development – Homebuyer Education Requirements STATUS: PASSED – Effective October 1, 2018 Provides additional flexibility for individuals who are required to take a homebuyer class as a requirement for financing. The bill permits loan recipients to take an on-line HUD-approved homebuyer education program for a loan associated with a HUD-approved product. The legislation would also allow a homebuyer education program certificate approved in one county to be used in another county.

HB 1257 – Residential Leases – Lease Option Agreements – Required Statements STATUS: PASSED – Effective October 1, 2018 Clarifies that a person signing a lease option to purchase agreement is subject to an actual lease under Title 8 of the Real Property Article.

HB 1350/SB 1006 – Sea Level Rise Inundation and Coastal Flooding – Construction, Adaptation, and Mitigation STATUS: PASSED – Effective July 1, 2018 Among other provisions, required a seller of property to disclose whether the property would be impacted by sea level rise and provide a map of how the property would be impacted. The bill also included other provisions affecting how state funds are spent on projects impacted by sea level rise. Although the bill passed, the real estate disclosure was removed from the bill.

HB 1481/SB 648 – Real Property – New Home Sales – Information on Energy-Efficient Options STATUS: PASSED – Effective October 1, 2018 Requires a homebuilder of more than 10 homes to provide the purchaser with written information about any energy-efficient options and tax credits available for the property. The disclosure must occur prior to the execution of the contract.

HB 1482/SB 846 – State Real Estate Commission – Brokers – Business Succession in the Event of Disability STATUS: PASSED – Effective October 1, 2018 Broadens the rules regarding business succession to brokers who are permanently disabled. Current law provides direction regarding the continuation of a brokerage after the death of the broker but had no corresponding language providing direction when a broker is disabled and unable to direct the company.

HB 1511 – Credit Regulation – Mortgage Brokers – Finder's Fee STATUS: PASSED – Effective October 1, 2018 Establishes that a mortgage broker may still collect a fee if the broker provides a refinance to an existing client within 24 months of procuring the original loan. Previously, a broker was unable to collect a fee for that work.

HB 1593/SB 1217 – Real Property – Mobile Home Parks – Notices to Residents STATUS: PASSED – Effective July 1, 2018 Requires a mobile park owner to notify residents of a contract to sell the mobile home park. In addition, the park owner must notify residents of an increase in the rent at least 60 days before expiration of the current lease. The rent increase provisions only apply to the renewal of annual leases.

HB 1656/SB 843 – State Real Estate Commission – Real Estate Guarantee Fund – Fund Transfer STATUS: PASSED – Effective October 1, 2018 Provides budget flexibility to the

Real Estate Commission to avoid unnecessary fee assessments on real estate licensees. Real estate licensees pay a separate guarantee fund payment when they apply for their initial licensing. That law specifies that if the Fund falls below \$250,000, all licensees will be assessed an additional fee to recapitalize it. The legislation grants the Commission authority to transfer up to \$500,000 from their general fund surplus to the Guarantee Fund when it is close to falling below the statutory minimum.

SB 621 – Real Property – Deletion of Ownership Restrictions Based on Race, Religious Belief, or National Origin STATUS: PASSED – Effective October 1, 2018 Creates an easier process to remove illegal covenants affecting race, religious belief or national origin from property records for community groups and homeowners. These covenants are already illegal, but many communities have trouble striking them from the land records. Directs Homeowners associations (HOAs) to remove these restrictive covenants from their governing documents by September 30, 2019. Exempts a restrictive covenant modification from the recording fee and court surcharge.

SB 755 – Credit Regulation – Escrow Accounts – Water and Sewer Facilities Assessments STATUS: PASSED – Effective October 1, 2018 Authorizes lenders to create an escrow account for water and sewer fees associated with the property if requested by the borrower. Although authorized to establish an account, a lender is not required to create an account.

REAL ESTATE BROKERAGE AND CONTRACTS - 2019

HB 22 – Occupational Licenses or Certificates – Application Determinations – Use of Criminal History STATUS: PASSED – Effective October 1, 2019 States that an occupational license may not be denied to an applicant based solely on the applicant’s prior conviction if: at least 7 years has passed between completing all requirements of that conviction (including probation); and the applicant has not committed any other crime beyond a minor traffic violation.

HB 123 – Real Estate Salespersons and Brokers – Provision of Real Estate Brokerage Services Through a Team – Use of “and Associates” STATUS: PASSED – Effective October 1, 2019 Authorizes real estate teams to advertise using the term “and associates.”

HB 222 – Real Property – Residential Real Estate Transactions – Escrow Agents STATUS: PASSED – Effective October 1, 2019 Requires certain persons holding escrow money (including title companies and attorneys) to have a written agreement with the buyer and seller. The agreement must include the following information: the amount of trust money offered and the date the escrow agent received it; the fact the escrow agent will notify the parties if there is no money backing the check; and the conditions under which the escrow agent may release the money. The current Escrow Agreement Form offered the Maryland REALTORS® and the

Maryland Land Title Association complies with the law. The bill does not apply to real estate companies who already have requirements under law.

HB 557/SB 509 – Property Tax – In Rem Foreclosure and Sale – Vacant and Abandoned Property STATUS: PASSED – Effective October 1, 2019 Creates an expedited tax sale process (judicial in rem) for vacant property or property that is unfit for human habitation.

HB 1228/SB 807 – State Real Estate Commission – Real Estate Brokerage Relationships, Continuing Education, and Disclosures STATUS: PASSED – Effective October 1, 2019 Requires that information learned by a licensee in anticipation of forming a brokerage relationship is confidential and may not be disclosed without the written consent of the individual. The bill also seeks to combine three definitions of brokerage relationship under the law into two definitions. Finally, the bill clarifies a definition of dual agency.

HB 1386/SB 852 – Department of Labor, Licensing, and Regulation – Veterans and Military Service Members and Spouses – Occupational Licenses STATUS: PASSED – Effective October 1, 2019 Clarifies that when a licensing body, such as the Real Estate Commission, issues an expedited license for a service member, veteran or military spouse, that it should do so within 60 days after receiving a completed application. The different licensing bodies must also post direction on how to apply for the license.

SB 25 – Real Property – Conservation Easements, Covenants, Restrictions, and Conditions – Recording Notice STATUS: PASSED – Effective October 1, 2019 Clarifies that certain state agencies may file a notice of easement to ensure it falls within the time limits of title searches conducted on a property. The bill would affect agricultural easements, environmental trust easements, historical preservation easements, and natural resource easements among others.

SB 26 – State Department of Assessments and Taxations – Expedited Document Processing STATUS: PASSED – Effective October 1, 2019 Authorizes the State Department of Assessments and Taxation to create additional fee levels when charging for expedited document requests. The bill is intended to provide additional levels of expedited service that will not cost as much as the current “same-day” expedited service.

SB 678 – State Government – Notarial Acts and Notaries Public STATUS: PASSED – Effective October 1, 2020 Permits remote and electronic notarization by Maryland notaries. The bill increases standards for notaries, including taking a course to become a notary or renew notary credentials. The bill gives the Maryland Secretary of State two years to implement the bill requirements.

BREAK

COMMON OWNERSHIP COMMUNITIES - 2018

HB 575 – Condominiums – Suspension of Use of Common Elements STATUS: PASSED – Effective October 1, 2018 Authorizes the council of unit owners to “suspend the use of parking or recreational facility common elements by a unit owner that is more than 60 days delinquent in

paying assessments.” To be effective, a council of unit owners must add this authority to their bylaws by a 60% vote of the unit owners.

LAND-USE, PROPERTY RIGHTS, AND THE ENVIRONMENT - 2018

HB 1736/SB 1140 – Maryland Agricultural Land Preservation Foundation – Definition of Child STATUS: PASSED – Effective July 1, 2018 Expands the “release of lot” provision under a MALPF easement to include a stepchild. The law applies retroactively.

HB 1765 – On-Site Sewage Disposal Systems – Watershed Implementation Plan and Bay Restoration Fund Disbursements and Financial Assistance STATUS: PASSED – Effective October 1, 2018 Expands the use of the Bay Restoration fund so that a county which creates a Septic Stewardship Program can use up to 10% of the Bay Restoration funds granted to the county to pay for pump-outs of septic systems. A county pump-out program would have to meet state standards to qualify.

SB 885 – Maryland Agricultural Land Preservation Foundation – Condemnation of Land Under Easement STATUS: PASSED – Effective June 30, 2018 Changes the calculation of compensation when a MALPF easement is seized by condemnation. Rather than reimbursing the county or state programs the cost of the easement paid by MALPF, MALPF receives the fair market value which it must share with the owner of the property and any other entities that contributed to the acquisition of the easement.

LAND-USE, PROPERTY RIGHTS, AND THE ENVIRONMENT - 2019

HB 190 – Environment – Failing On-Site Sewage Disposal System – Definition STATUS: PASSED – Effective October 1, 2019 Establishes a more uniform definition of a “failing” septic system, including whether the unit is backing up in the house, leaking, or generally increasing the chance of direct contact between people and sewage.

HB 735/SB 729 – Technical Study on Changes in Forest Cover and Tree Canopy in Maryland STATUS: PASSED – Effective June 1, 2019 Authorizes a study of forests and tree cover throughout Maryland in consultation with state agencies and the Chesapeake Bay Program. The report is due to the Governor and the General Assembly on or before December 1, 2019.

HB 1045 – Land Use – Comprehensive Plans – Housing Element STATUS: PASSED – Effective: June 1, 2020 Requires a mandatory housing element for comprehensive plans in Maryland. The housing element can include goals, objectives, and policies and must include the need for workforce and low-income housing. The provisions do not apply to any comprehensive plan updated before June 1, 2020.

SB 57 – Agriculture – County Agricultural Land Preservation Programs STATUS: PASSED – Effective July 1, 2019 Increases from 3 years to 6 years the amount of time in which a local government may spend money received from the termination of agricultural easements.

PROPERTY MANAGEMENT - 2018

HB 1073/SB 468 – Landlord and Tenant – Residential Leases – Water and Sewer Bills STATUS: PASSED – Effective October 1, 2018 Requires landlords of one to two dwelling units to provide to the tenant a copy of the water or sewer bill unless the tenant pays the bills directly to the utility providers. If the tenant pays the water and sewer fee directly to the landlord, the lease must state that the tenant is responsible for paying these fees.

HB 1491 – Public Service Commission – Repeal of Master Metering Authorization and Study on Energy Allocation Systems and Submetering STATUS: PASSED – Effective July 1, 2018 Prohibits the Public Service Commission (PSC) from approving the use of a master meter without submeters. The authority to grant such master meters was passed in 2010 but has never been exercised by the PSC. In addition, the legislation directs the PSC to study changing master meters “to energy allocation systems or submeters in apartment buildings or complexes, condominiums, and housing cooperatives.”

SB 226 – Real Property – Wrongful Detainer and Distress Actions – Trial by Jury STATUS: PASSED – Effective October 1, 2018 Clarifies that a jury trial may be requested for a wrongful detainer and distress of rent case if the case meets the “amount in controversy” requirement for jury trials.

PROPERTY MANAGEMENT - 2019

HB 884/SB 533 – Sales and Use Tax – Short-Term Rentals STATUS: PASSED – Effective June 1, 2019 Clarifies that short-term rental platforms, like Airbnb, must collect and remit sales and use taxes.

HB 1233 – Environment – Reduction of Lead Risk in Housing – Elevated Blood Lead Levels and Environmental Investigations (Maryland Healthy Children Act) STATUS: PASSED – Effective October 1, 2019 Lowers the trigger level under the state lead paint prevention laws from 10 micrograms per deciliter (ug/dl) to the blood lead reference level established by the United States Centers for Disease Control and Prevention. That rate is currently 5 ug/dl. Directs the Maryland Department of Environment to establish an environmental investigation protocol for determining lead risks that would also be applied to rental property subject to the Lead Poisoning Prevention Program.

COMMERCIAL - 2018

SB 999 – Recordation Tax – Exemptions STATUS: PASSED – Effective July 1, 2018 Expands the exemption from the recordation tax for the refinancing of certain property when that property is owned by the same interests. The law had permitted such an exemption for a limited liability company or corporation and will now include limited partnerships and statutory trusts.

HB 1107 – Public Safety – Elevator Inspections – Testing and Apprenticeship Program STATUS: PASSED – Effective October 1, 2018 Requires that a third-party elevator inspector be physically present to observe the testing of elevators. The requirement is phased in over a three-year period and directs the Department of Labor, Licensing and Regulation (DLLR) to administer an apprenticeship program for inspectors.

HB 1329/SB 1102 – Landlord and Tenant – Action for Repossession of Nonresidential Property – Service of Process STATUS: PASSED – Effective October 1, 2018 Codifies a practice common in commercial real estate allowing private process servers to serve commercial tenants who fail to pay rent. This common practice had been called into question by some judges.

HB 1454/SB 967 -- Heritage Structure Rehabilitation Tax Credit – Commercial Rehabilitations – Affordable Housing STATUS: PASSED – Effective July 1, 2018 for taxable years after December 31, 2017 Provides an additional 5% credit for a rehabilitation that qualifies as affordable housing. Specifies that an expired or unclaimed credit may be reissued the following fiscal year, and expands the credit for projects that are comprised of multiple buildings

MISCELLANEOUS - 2018

HB 243/SB 968 – Task Force on Rural Internet, Broadband, Wireless, and Cellular Service – Study and Extension STATUS: PASSED – Effective June 1, 2018 Extends the current Task Force by one year to November 30, 2018 in order to examine how to access federal assistance to improve internet, broadband, wireless and cellular services throughout all of rural Maryland.

HB 810/SB 728 – Public Safety – Battery Operated Smoke Alarms STATUS: PASSED – Effective October 1, 2018 Prohibits the sale of a battery-operated smoke alarm unless it is a sealed, tamper resistant unit with long-life batteries. Authorizes WIFI connected smoke alarms linked to alarm systems and authorizes the Fire Marshall to designate other systems as compliant.

This information is derived from the Maryland Realtors' 2018-2019 Legislative Summaries