Introduced March 2, 2020
Public Hearing June 15, 2020
Council Action July 6, 2020
Executive Action July 7, 2020
Effective Date September 6, 2020

County Council of Howard County, Maryland

2020 Legislative Session

Legislative Day No. 3

Bill No. 13-2020

Introduced by: Christiana Rigby
Co-sponsored by: Opel Jones and Liz Walsh

AN ACT amending the Howard County Code to establish a Notice and a Requirement to provide an offer to the County and Housing Commission to Purchase Rental Housing offered for sale in the County; and generally relating to the sale of Rental Housing.

Introduced and read first time March 2, 2020. Ordered posted and hearing scheduled.

By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on June 15, 2020.

By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator

This Bill was read the third time on July 6, 2020 and Passed ___, Passed with amendments X, Failed _____.

By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 7th day of July, 2020 at 2:30 a.m./p.m.

By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator

Approved/Vetoed by the County Executive July 7, 2020

Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment

4/6/2020 Tabled
5/4/2020 removed from table, extended & put back on table
6/1/2020 removed from table, extended & put back on table
7/6/2020 removed from table

Section 1. Be It Enacted *by the County Council of Howard County, Maryland, that the Howard County Code is amended as follows:*

By amending:

Title 13. Housing and Community Development

Subtitle 14. Notice - Sale of Multifamily Dwelling Units

HOWARD COUNTY CODE

Title 13. Housing and Community Development.

Subtitle 14. – Notice AND RIGHT TO PURCHASE - Sale of [[Multifamily Dwelling Units]] RENTAL HOUSING

Sec. 13.1400. - Definitions.

(a) *Commission* means the Howard County Housing Commission.

(b) *Department* means the Department of Housing and Community Development.

(c) *Owner* means an individual or entity holding title to rental housing.

(d) *Rental Housing* means a multiple-family dwelling, or a group of multiple-family dwellings operated as one entity, with a total of five or more rental units.

(e) *Sale, sell* or *selling* means:

(1) Transfer of title to rental housing;

(2) Transfer in a 12-month period of a majority interest in ownership of the rental housing;

(3) TRANSFER IN A 12-MONTH PERIOD OF A MAJORITY INTEREST IN OWNERSHIP OF AN ENTITY HOLDING TITLE TO THE RENTAL HOUSING; or

(~~3~~4) Lease of rental housing for more than seven years.

(f) *Tenant* means an individual who lives in a rental housing unit with the owner's consent and is responsible for paying rent to the owner.

(g) *Tenant organization* means an association of tenants of rental housing that represents tenants of at least 30 percent of the occupied units in the rental housing.

(h) *Title* means:

(1) A legal or equitable ownership interest in rental housing; or

(2) A legal, equitable, or beneficial interest in a partnership, limited partnership, corporation, trust, or other person who is not an individual, that has a legal or equitable interest in rental housing.

Sec. 13.1401. - Purpose.

The purpose of this subtitle is to ADDRESS A SHORTAGE OF AFFORDABLE RENTAL HOUSING IN THE COUNTY AND TO increase opportunities for the Department and the Commission to expand the number of affordable dwelling units available in the County by requiring an owner of rental housing to FIRST provide notice AND A WRITTEN OFFER TO PURCHASE to the Department, the Commission, and a tenant organization when the owner offers the rental housing for sale either in whole or in part TO ANOTHER PARTY.

Sec. 13.1402. - Notice required.

(a) *Notice of Intent to Sell.* Unless otherwise provided by law, no later than three days after offering the rental housing for sale, the owner [[must]] SHALL provide BY FIRST CLASS MAIL TO THE DEPARTMENT, THE COMMISSION, AND TENANTS OF THE RENTAL HOUSING written notice of the owner's intent to sell [[to the Department and the Commission by first-class mail]] THE PROPERTY. ANY CONTRACT OF SALE SHALL COMPLY WITH THE REQUIREMENTS OF THIS SUBTITLE PRIOR TO ENTERING INTO A NON-CONTINGENT CONTRACT OF SALE OF RENTAL HOUSING. THE OWNER MAY ENTER INTO A CONTRACT OF SALE FOR RENTAL HOUSING THAT IS CONTINGENT UPON THE COUNTY'S OR THE COMMISSION'S WAIVER OF RIGHTS PURSUANT TO THIS SUBTITLE.

(b) *Notice upon [[Sale]]* *THE EXECUTION OF A BONA FIDE CONTRACT OF SALE.* Unless otherwise provided by law, no later than ten days after the EXECUTION OF A BONA FIDE CONTRACT OF sale of rental housing , the owner [[must]] SHALL provide written notice of the sale:

(1) To each tenant [[and tenant organization, if any,]] in the rental housing by first-class AND TO ANY TENANT ORGANIZATION, IF ANY, BY CERTIFIED mail, RETURN RECEIPT REQUESTED;

(2) By conspicuously posting the notice in public areas of the rental housing; and

(3) To the Department of Inspections, Licenses and Permits by [[first-class]] CERTIFIED mail, RETURN RECEIPT REQUESTED; and

(4) To the Department and the Commission by [[first class]] CERTIFIED mail, RETURN RECEIPT REQUESTED with a list identifying each tenant and the tenant's address.

(C) *NOTICE COMPLIANCE.* THE OWNER SHALL ISSUE A CERTIFICATE OF NOTICE COMPLIANCE FOR THE SALE OF RENTAL HOUSING TO THE COUNTY IN A FORM APPROPRIATE FOR RECORDATION IN THE LAND RECORDS.

(D) *ENFORCEMENT.*

(1) THE ~~DEPARTMENT~~ COUNTY MAY ENFORCE THIS PROVISION BY:

(A) INVESTIGATING ANY ALLEGED VIOLATION;

(B) ISSUING A SUMMONS OR SUBPOENA TO COMPEL THE ATTENDANCE OF A PERSON OR THE PRODUCTION OF DOCUMENTS OR OTHER EVIDENCE;

~~(C) ISSUING A NOTICE OF VIOLATION ORDERING ABATEMENT AND COMPLIANCE;~~

(~~D~~C) REPORTING A VIOLATION TO ANY OTHER APPROPRIATE GOVERNMENT AGENCY;

(~~E~~D) INFORMAL CONCILIATION BETWEEN A COMPLAINANT AND AN ALLEGED VIOLATOR;

(~~F~~E) DISMISSING A COMPLAINT WHEN THE ~~DIRECTOR OF THE DEPARTMENT~~ COUNTY DETERMINES THAT THERE IS INSUFFICIENT EVIDENCE OF A VIOLATION;

(~~G~~F) OBTAINING INJUNCTIVE OR OTHER APPROPRIATE JUDICIAL RELIEF, SUCH AS AN ORDER TO:

(1) REQUIRE COMPLIANCE WITH A SUMMONS OR A SUBPOENA;

(2) REQUIRE AN ALLEGED VIOLATOR OR WITNESS TO ATTEND A ~~DEPARTMENT MEETING OR OTHER~~ PROCEEDING CONCERNING THE ALLEGED VIOLATION;

(3) REQUIRE PRODUCTION OF DOCUMENTS OR OTHER EVIDENCE;

(4) REQUIRE TRANSFER OF DOCUMENTS OR OTHER EVIDENCE TO THE COURT; OR

(5) PROHIBIT THE DESTRUCTION OF DOCUMENTS OR OTHER EVIDENCE;

(~~H~~G) ORDERING ANY APPROPRIATE FINANCIAL, LEGAL, OR EQUITABLE RELIEF TO A TENANT INJURED BY A VIOLATION OF THIS CHAPTER;

(I) ANY OTHER APPLICABLE ENFORCEMENT ACTION THAT THE ~~DEPARTMENT~~ COUNTY COULD TAKE TO ENFORCE A VIOLATION;

(J) DEVELOPING, CONDUCTING, OR ASSISTING IN EDUCATIONAL AND INFORMATION PROGRAMS CONCERNING THE REQUIREMENTS OF THIS CHAPTER; AND

(K) ADOPTING REGULATIONS TO IMPLEMENT THIS CHAPTER.

(2) THE RENTAL HOUSING LICENSE ISSUED UNDER SUBTITLE 9 OF TITLE 14 OF THIS CODE IS SUBJECT TO REVOCATION BY THE DIRECTOR OF THE HOWARD COUNTY DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS. IF THE OWNER OF THE RENTAL HOUSING VIOLATES THE PROVISIONS OF 13.1403, THEN REVOCATION MAY OCCUR AFTER SERVICE OF NOTICE DESCRIBING THE VIOLATION UNDER THIS SUBTITLE ~~AND A REASONABLE OPPORTUNITY TO CURE THE VIOLATION~~ AND THE REVOCATION CAN BE ENFORCED FOR UP TO 24 MONTHS. NOTICE SHALL BE SERVED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 14.903(C).

~~(E) ANY SALE OF RENTAL HOUSING IN VIOLATION OF THIS CHAPTER IS VOID.~~

(~~F~~E) THIS CHAPTER DOES NOT LIMIT ANY OTHER LEGAL RIGHT AVAILABLE TO A PERSON.

(~~G~~F) NOTHING HEREIN CREATES A THIRD-PARTY RIGHT IN ANY INDIVIDUAL TENANT.

SECTION 13.1403. – RIGHT TO PURCHASE

(A) *RIGHT TO PURCHASE.* AN OWNER SHALL OFFER THE COUNTY AND COMMISSION THE RIGHT TO BUY RENTAL HOUSING IN ACCORDANCE WITH THE REQUIREMENTS OF ~~SECTION 13.1402~~ THIS SUBTITLE, EXCEPT IF THE PROPERTY MEETS THE REQUIREMENTS UNDER SECTION 13.1403(F).

(B) *REQUIREMENTS FOR OFFER.* AN OFFER REQUIRED BY SUBSECTION (A) SHALL:

(1) BE IN WRITING;

(2) BE ON COMMERCIALLY REASONABLE TERMS AND INCLUDE SUBSTANTIALLY THE SAME TERMS AND CONDITIONS UPON WHICH THE OWNER WILL OFFER THE PROPERTY FOR SALE ON THE COMMERCIAL MARKET OR WHICH ARE CONTAINED IN A CONTINGENT BONA FIDE CONTRACT OF SALE EXECUTED BY THE OWNER AND A THIRD PARTY; AND

(3) REMAIN OPEN FOR ~~90~~ 45 DAYS AFTER IT IS RECEIVED, FOR THE COUNTY AND COMMISSION.

(C) *INFORMATION AND INSPECTION.* THE OWNER SHALL GIVE THE COUNTY AND COMMISSION:

(1) ANY INFORMATION ABOUT THE RENTAL HOUSING RELEVANT TO EXERCISING THE RIGHT OF PURCHASE, SUCH AS ARCHITECTURAL AND ENGINEERING PLANS AND SPECIFICATIONS, AND OPERATING DATA; AND

(2) ACCESS TO THE RENTAL HOUSING TO INSPECT THE PROPERTY AND CONDUCT REASONABLE TESTS AT REASONABLE TIMES AFTER REASONABLE NOTICE.

THE COUNTY OR COMMISSION SHALL PAY THE OWNER A REASONABLE DEPOSIT NOT TO EXCEED THE ACTUAL COST OF REPRODUCING ANY ARCHITECTURAL AND ENGINEERING PLANS THAT THE OWNER IS REQUESTED TO PROVIDE. THE OWNER SHALL REFUND THE DEPOSIT WHEN THE PLANS ARE RETURNED TO THE OWNER.

(D) *EXERCISE OF RIGHT TO PURCHASE.*

(1) THE COUNTY OR COMMISSION MAY EXERCISE THE RIGHT TO PURCHASE BY ACCEPTING THE OFFER WITHIN THE APPLICABLE PERIOD UNDER SUBSECTION (B)(3).

(2) THE OWNER SHALL SELL THE RENTAL HOUSING UNDER THE RIGHT TO PURCHASE IF THE ACCEPTANCE INCLUDES SUBSTANTIALLY THE SAME TERMS AND CONDITIONS CONTAINED IN THE OWNER'S BONA FIDE OFFER OR CONTINGENT CONTRACT OF SALE WITH A THIRD PARTY, INCLUDING ANY CONTRACT TERM THAT PROVIDES FOR A REAL ESTATE COMMISSION PAYABLE TO AN INDEPENDENT BROKER, NOT TO EXCEED 3 PERCENT OF THE SALES PRICE. NOTWITHSTANDING THIS GENERAL REQUIREMENT OR ANY TERM OF THE CONTRACT, THE COUNTY OR COMMISSION MAY CONDITION ITS ACCEPTANCE ON OBTAINING FINANCING AT ANY TIME BEFORE THE DEADLINE IN PARAGRAPH (3) FOR COMPLETING THE SALE.

(3) THE OWNER AND THE COUNTY OR COMMISSION SHALL COMPLETE A SALE UNDER THIS SUBSECTION WITHIN 180 DAYS AFTER THE COUNTY OR COMMISSION RECEIVES THE OWNER'S OFFER UNLESS THE PARTIES AGREE IN WRITING TO EXTEND THE 180-DAY PERIOD.

(4) THE RIGHT TO PURCHASE APPLIES IN THE FOLLOWING ORDER OF PRIORITY:

(A) THE COUNTY; AND

(B) COMMISSION.

(E) *EXPIRATION OF RIGHT TO PURCHASE.* IF THE COUNTY AND COMMISSION DO NOT EXERCISE THEIR RIGHTS TO PURCHASE WITHIN THE APPLICABLE PERIOD UNDER SUBSECTION (B)(3), THE OWNER MAY SELL THE RENTAL HOUSING TO THE THIRD-PARTY BUYER UNDER SUBSTANTIALLY THE SAME TERMS AND CONDITIONS OFFERED TO THE COUNTY AND COMMISSION.

(F) *SALES NOT REQUIRING RIGHT TO PURCHASE.* AN OWNER DOES NOT HAVE TO PROVIDE A RIGHT TO PURCHASE FOR THE SALE OF THE FOLLOWING TRANSFERS OF A RENTAL FACILITY:

(1) ANY TRANSFER MADE PURSUANT TO THE TERMS OF A BONA FIDE MORTGAGE OR DEED OF TRUST AGREEMENT, EXCLUDING AN INDEMNITY DEED OF TRUST;

(2) ANY TRANSFER TO A MORTGAGEE IN LIEU OF FORECLOSURE OR ANY TRANSFER PURSUANT TO ANY OTHER PROCEEDINGS, ARRANGEMENT OR DEED IN LIEU OF FORECLOSURE;

(3) ANY TRANSFER MADE PURSUANT TO A JUDICIAL SALE OR OTHER JUDICIAL PROCEEDING BROUGHT TO SECURE PAYMENT OF A DEBT OR FOR THE PURPOSE OF SECURING THE PERFORMANCE OF AN OBLIGATION;

(4) ANY TRANSFER OF THE INTEREST OF ONE CO-TENANT TO ANOTHER CO-TENANT BY OPERATION OF LAW OR OTHERWISE;

(5) ANY TRANSFER MADE BY WILL OR DESCENT OR BY INTESTATE DISTRIBUTION;

(6) ANY TRANSFER MADE TO ANY MUNICIPAL, COUNTY OR STATE GOVERNMENT OR TO ANY AGENCIES, INSTRUMENTALITIES OR POLITICAL SUBDIVISIONS THEREOF;

(7) ANY TRANSFER TO AN OWNER'S SPOUSE OR CHILD; OR

(8) ANY TRANSFER INTO A PARTNERSHIP OR CORPORATION WHOLLY OWNED BY THE PERSON(S) SO TRANSFERRING.

(G) *FORGOING THE RIGHT TO PURCHASE FOR AFFORDABLE ~~OR SENIOR~~ UNITS.* IF A RENTAL HOUSING OWNER ENTERS A BINDING AGREEMENT WITH THE COUNTY OR COMMISSION TO DESIGNATE AND MAINTAIN THE GREATER OF EITHER THE EXISTING PERCENTAGE OR AT LEAST 20 PERCENT OF THE UNITS IN THE RENTAL HOUSING OFFERED FOR SALE CLASSIFIED AS ~~SENIOR OR~~ AFFORDABLE TO PERSONS OF ELIGIBLE INCOME (AS DEFINED IN SECTION ~~28.116~~ 13.1303(I) OF THE COUNTY CODE) FOR AT LEAST 40 YEARS, THEN THE OWNER DOES NOT HAVE TO OFFER A RIGHT TO PURCHASE AS PROVIDED IN THIS SECTION.

(H) *FORGOING THE RIGHT TO PURCHASE IN A TIMELY MANNER.* THE COUNTY OR COMMISSION SHALL, WITHIN 7 DAYS OF THE NOTICE OF THE SALE UNDER SECTION 13.1402(A) OR (B), NOTIFY THE OWNER OF A RENTAL HOUSING DEVELOPMENT:

(1) THAT NEITHER WILL PURCHASE THE PROPERTY OFFERED FOR SALE IF THE PURCHASE WOULD:

(A) INCREASE THE POVERTY LEVEL IN A CENSUS TRACT BLOCK GROUP IF THE POVERTY LEVEL IN THE CENSUS TRACT BLOCK GROUP IS 10% OR GREATER; OR

(B) INCREASE THE POVERTY RATE OF A CENSUS TRACT BLOCK GROUP TO 10% OR GREATER; OR

OR IF THERE IS NO INTENT TO PURSUE THE PURCHASE OF THE PROPERTY.

(I) *CERTIFICATION TO DEPARTMENT OF FINANCE.* THE DEPARTMENT OF FINANCE SHALL DEVELOP A METHOD TO CERTIFY THAT THE TRANSACTION MEETS THE REQUIREMENTS OF THIS SECTION.

Sec. 13.[[1403]]1404. - Purchase.

(a) *Purchase.* IN ADDITION TO THE RIGHT TO PURCHASE SET FORTH IN SECTION 13.1403, THE [[The]] ~~Department~~ COUNTY, Commission, or the tenant organization, if any, may negotiate with the owner to purchase the rental housing.

(b) *Information and Inspection.* Upon entering into negotiations and on request the owner shall give the ~~Department~~ COUNTY, the Commission, and any tenant organization:

(1) Any information about the rental housing relevant to purchasing the rental housing, such as architectural and engineering plans and specifications, and operating data; or

(2) Access to the rental housing to inspect the property and conduct reasonable tests at reasonable times after reasonable notice.

(c) *The ~~Department~~ COUNTY or Commission.* The ~~Department~~ COUNTY or Commission may make an offer to purchase the rental housing in accordance with section 13.407. [[At least 20 percent of the units of any rental housing purchased by the ~~Department~~ COUNTY or Commission shall be maintained as affordable to persons of moderate income as defined in subtitle 4 of this title.]]

SECTION 13.1405. AFFORDABLE UNITS.

AT LEAST 20 PERCENT OF THE UNITS OF ANY RENTAL HOUSING PURCHASED BY THE ~~DEPARTMENT~~ COUNTY OR THE COMMISSION, UNDER THIS SUBTITLE, SHALL BE MAINTAINED AS AFFORDABLE, ~~IN PERPETUITY~~ FOR AT LEAST FORTY YEARS, TO HOUSEHOLDS WITH INCOME AT LEVELS AT OR BELOW THE MODERATE-INCOME LEVEL AS DEFINED IN SECTION 13.1303(I) OF THIS CODE.

Sec. 13.[[1404]]1406. - Regulations.

The Department may adopt regulations to implement this section.

Sec. 13.[[1405]]1407. - Annual reports to the Council.

Subject to section 22.1000 of the County Code, by February 1 of each year, the Department AND THE COMMISSION shall report AND PRESENT to the Council on activities under this subtitle for the prior calendar year, including:

(a) Any notice of offer to sell received by the Department or Commission; and

(b) The number of rental units the ~~Department~~ COUNTY or Commission acquired[[.]], SPECIFICALLY:

(1) THE LOCATION OF AFFORDABLE UNITS;

(2) THE UNIT MIX OF THE RENTAL HOUSING BROKEN DOWN BY MARKET RATE AND AFFORDABLE UNITS;

(3) A BREAKDOWN OF AFFORDABLE UNITS BY NUMBER AND SIZE OF BEDROOMS;

(4) A BREAKDOWN OF AFFORDABILITY LEVELS FOR THE AFFORDABLE UNITS;

(5) A COMPARISON OF UNIT FINISHES FOR MARKET RATE AND AFFORDABLE UNITS;

(6) A COMPARISON OF ADDITIONAL FEES BEYOND RENT FOR MARKET RATE AND AFFORDABLE UNITS;

(7) CAPITAL INVESTMENTS AND AMENITIES MADE OR PLANNED FOR THE PROPERTY;

(8) THE GENERAL CONDITION AND PLANNED MAINTENANCE FOR THE PROPERTY; AND

(9) HOW THE OVERALL NUMBER OF EXISTING AFFORDABLE UNITS IN THE COUNTY RELATES TO THE AFFORDABLE HOUSING NEEDS, INCLUDING UNMET HOUSING DEMAND, IDENTIFIED IN THE MOST CURRENT HOUSING OPPORTUNITIES MASTER PLAN OR SIMILAR PLAN APPROVED BY THE COUNTY COUNCIL~~; AND~~.

(10) A MAP SHOWING THE LOCATIONS AND TOTALS BY LOCATION OF (I) THE EXISTING AFFORDABLE UNITS IN THE COUNTY, (II) THE MARKET RATE UNITS, (III) THE APPROVED BUT NOT BUILT AFFORDABLE UNITS AND MARKET RATE UNITS; AND (IV) HOUSING UNIT ALLOCATIONS GRANTED FOR BOTH AFFORDABLE UNITS AND MARKET RATE UNITS.

Section 2. And Be It Further Enacted *by the County Council of Howard County, Maryland, that this Act shall become effective 61 days after its enactment.*

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on July 7, 2020.

Diane Schwartz Jones

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2020.

_____

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2020.

_____

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2020.

_____

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2020.

_____

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2020.

_____

Diane Schwartz Jones, Administrator to the County Council

Introduced March 2, 2020
Public Hearing June 15, 2020
Council Action July 6, 2020
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2020 Legislative Session

Legislative Day No. 3

Bill No. 13 -2020

Introduced by: Christiana Rigby
Co-sponsored by: Opel Jones and Liz Walsh

AN ACT amending the Howard County Code to establish a Notice and a Requirement to provide an offer to the County and Housing Commission to Purchase Rental Housing offered for sale in the County; and generally relating to the sale of Rental Housing.

Introduced and read first time March 2, 2020. Ordered posted ~~and~~ hearing scheduled.

By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator

4/6/2020 tabled
5/4/2020 removed from table, extended + placed back on table

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on June 15, 2020.

6/1/2020 removed from table, extend + back on table
7/6/20 removed from table

By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator

This Bill was read the third time on July 6, 2020 and Passed ___, Passed with amendments X, Failed _____.

By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___day of _____, 2020 at ___ a.m./p.m.

By order _____
Diane Schwartz Jones, Administrator

Approved/Vetoed by the County Executive _____, 2020

_____
Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment

Section 1. Be It Enacted *by the County Council of Howard County, Maryland, that the Howard County Code is amended as follows:*

By amending:

Title 13. Housing and Community Development

Subtitle 14. Notice - Sale of Multifamily Dwelling Units

HOWARD COUNTY CODE

Title 13. Housing and Community Development.

Subtitle 14. – Notice AND RIGHT TO PURCHASE - Sale of [[Multifamily Dwelling Units]]

RENTAL HOUSING

Sec. 13.1400. - Definitions.

(a) *Commission* means the Howard County Housing Commission.

(b) *Department* means the Department of Housing and Community Development.

(c) *Owner* means an individual or entity holding title to rental housing.

(d) *Rental Housing* means a multiple-family dwelling, or a group of multiple-family dwellings operated as one entity, with a total of five or more rental units.

(e) *Sale, sell* or *selling* means:

(1) Transfer of title to rental housing;

(2) Transfer in a 12-month period of a majority interest in ownership of the rental housing; or

(3) Lease of rental housing for more than seven years.

(f) *Tenant* means an individual who lives in a rental housing unit with the owner's consent and is responsible for paying rent to the owner.

(g) *Tenant organization* means an association of tenants of rental housing that represents tenants of at least 30 percent of the occupied units in the rental housing.

(h) *Title* means:

(1) A legal or equitable ownership interest in rental housing; or

(2) A legal, equitable, or beneficial interest in a partnership, limited partnership, corporation, trust, or other person who is not an individual, that has a legal or equitable interest in rental housing.

Sec. 13.1401. - Purpose.

The purpose of this subtitle is to ADDRESS A SHORTAGE OF AFFORDABLE RENTAL HOUSING IN THE COUNTY AND TO increase opportunities for the Department and the Commission to expand the number of affordable dwelling units available in the County by requiring an owner of rental housing to FIRST provide notice AND A WRITTEN OFFER TO PURCHASE to the Department, the Commission, and a tenant organization when the owner offers the rental housing for sale either in whole or in part TO ANOTHER PARTY.

Sec. 13.1402. - Notice required.

(a) *Notice of Intent to Sell.* Unless otherwise provided by law, no later than three days after offering the rental housing for sale, the owner [[must]] SHALL provide BY FIRST CLASS MAIL TO THE DEPARTMENT, THE COMMISSION, AND TENANTS OF THE RENTAL HOUSING written notice of the owner's intent to sell [[to the Department and the Commission by first-class mail]] THE PROPERTY. ANY CONTRACT OF SALE SHALL COMPLY WITH THE REQUIREMENTS OF THIS SUBTITLE PRIOR TO ENTERING INTO A NON-CONTINGENT CONTRACT OF SALE OF RENTAL HOUSING. THE OWNER MAY ENTER INTO A CONTRACT OF SALE FOR RENTAL HOUSING THAT IS CONTINGENT UPON THE COUNTY'S OR THE COMMISSION'S WAIVER OF RIGHTS PURSUANT TO THIS SUBTITLE.

(b) *Notice upon [[Sale]]* *THE EXECUTION OF A BONA FIDE CONTRACT OF SALE.* Unless otherwise provided by law, no later than ten days after the EXECUTION OF A BONA FIDE CONTRACT OF sale of rental housing , the owner [[must]] SHALL provide written notice of the sale:

(1) To each tenant [[and tenant organization, if any,]] in the rental housing by first-class AND TO ANY TENANT ORGANIZATION, IF ANY, BY CERTIFIED mail, RETURN RECEIPT REQUESTED;

(2) By conspicuously posting the notice in public areas of the rental housing; and

(3) To the Department of Inspections, Licenses and Permits by [[first-class]] CERTIFIED mail, RETURN RECEIPT REQUESTED; and

(4) To the Department and the Commission by [[first class]] CERTIFIED mail, RETURN RECEIPT REQUESTED with a list identifying each tenant and the tenant's address.

(C) *NOTICE COMPLIANCE.* THE OWNER SHALL ISSUE A CERTIFICATE OF NOTICE COMPLIANCE FOR THE SALE OF RENTAL HOUSING TO THE COUNTY IN A FORM APPROPRIATE FOR RECORDATION IN THE LAND RECORDS.

(D) *ENFORCEMENT.*

(1) THE DEPARTMENT MAY ENFORCE THIS PROVISION BY:

(A) INVESTIGATING ANY ALLEGED VIOLATION;

(B) ISSUING A SUMMONS OR SUBPOENA TO COMPEL THE ATTENDANCE OF A PERSON OR THE PRODUCTION OF DOCUMENTS OR OTHER EVIDENCE;

(C) ISSUING A NOTICE OF VIOLATION ORDERING ABATEMENT AND COMPLIANCE;

(D) REPORTING A VIOLATION TO ANY OTHER APPROPRIATE GOVERNMENT AGENCY;

(E) INFORMAL CONCILIATION BETWEEN A COMPLAINANT AND AN ALLEGED VIOLATOR;

(F) DISMISSING A COMPLAINT WHEN THE DIRECTOR OF THE DEPARTMENT DETERMINES THAT THERE IS INSUFFICIENT EVIDENCE OF A VIOLATION;

(G) OBTAINING INJUNCTIVE OR OTHER APPROPRIATE JUDICIAL RELIEF, SUCH AS AN ORDER TO:

(1) REQUIRE COMPLIANCE WITH A SUMMONS OR A SUBPOENA;

(2) REQUIRE AN ALLEGED VIOLATOR OR WITNESS TO ATTEND A DEPARTMENT MEETING OR OTHER PROCEEDING CONCERNING THE ALLEGED VIOLATION;

(3) REQUIRE PRODUCTION OF DOCUMENTS OR OTHER EVIDENCE;

(4) REQUIRE TRANSFER OF DOCUMENTS OR OTHER EVIDENCE TO THE COURT; OR

(5) PROHIBIT THE DESTRUCTION OF DOCUMENTS OR OTHER EVIDENCE;

(H) ORDERING ANY APPROPRIATE FINANCIAL, LEGAL, OR EQUITABLE RELIEF TO A TENANT INJURED BY A VIOLATION OF THIS CHAPTER;

(I) ANY OTHER APPLICABLE ENFORCEMENT ACTION THAT THE DEPARTMENT COULD TAKE TO ENFORCE A VIOLATION;

(J) DEVELOPING, CONDUCTING, OR ASSISTING IN EDUCATIONAL AND INFORMATION PROGRAMS CONCERNING THE REQUIREMENTS OF THIS CHAPTER; AND

(K) ADOPTING REGULATIONS TO IMPLEMENT THIS CHAPTER.

(2) THE RENTAL HOUSING LICENSE ISSUED UNDER SUBTITLE 9 OF TITLE 14 OF THIS CODE IS SUBJECT TO REVOCATION BY THE DIRECTOR OF THE HOWARD COUNTY DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS. IF THE OWNER OF THE RENTAL HOUSING VIOLATES THE PROVISIONS OF 13.1403, THEN REVOCATION MAY OCCUR AFTER SERVICE OF NOTICE DESCRIBING THE VIOLATION UNDER THIS SUBTITLE AND A REASONABLE OPPORTUNITY TO CURE THE VIOLATION. NOTICE SHALL BE SERVED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 14.903(C).

(E) ANY SALE OF RENTAL HOUSING IN VIOLATION OF THIS CHAPTER IS VOID.

(F) THIS CHAPTER DOES NOT LIMIT ANY OTHER LEGAL RIGHT AVAILABLE TO A PERSON.

(G) NOTHING HEREIN CREATES A THIRD-PARTY RIGHT IN ANY INDIVIDUAL TENANT.

SECTION 13.1403. – RIGHT TO PURCHASE

(A) *RIGHT TO PURCHASE.* AN OWNER SHALL OFFER THE COUNTY AND COMMISSION THE RIGHT TO BUY RENTAL HOUSING IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 13.1402, EXCEPT IF THE PROPERTY MEETS THE REQUIREMENTS UNDER SECTION 13.1403(F).

(B) *REQUIREMENTS FOR OFFER.* AN OFFER REQUIRED BY SUBSECTION (A) SHALL:

(1) BE IN WRITING;

(2) BE ON COMMERCIALLY REASONABLE TERMS AND INCLUDE SUBSTANTIALLY THE SAME TERMS AND CONDITIONS UPON WHICH THE OWNER WILL OFFER THE PROPERTY FOR SALE ON THE COMMERCIAL MARKET OR WHICH ARE CONTAINED IN A CONTINGENT BONA FIDE CONTRACT OF SALE EXECUTED BY THE OWNER AND A THIRD PARTY; AND

(3) REMAIN OPEN FOR 90 DAYS AFTER IT IS RECEIVED, FOR THE COUNTY AND COMMISSION.

(C) *INFORMATION AND INSPECTION.* THE OWNER SHALL GIVE THE COUNTY AND COMMISSION:

(1) ANY INFORMATION ABOUT THE RENTAL HOUSING RELEVANT TO EXERCISING THE RIGHT OF PURCHASE, SUCH AS ARCHITECTURAL AND ENGINEERING PLANS AND SPECIFICATIONS, AND OPERATING DATA; AND

(2) ACCESS TO THE RENTAL HOUSING TO INSPECT THE PROPERTY AND CONDUCT REASONABLE TESTS AT REASONABLE TIMES AFTER REASONABLE NOTICE.

THE COUNTY OR COMMISSION SHALL PAY THE OWNER A REASONABLE DEPOSIT NOT TO EXCEED THE ACTUAL COST OF REPRODUCING ANY ARCHITECTURAL AND ENGINEERING PLANS THAT THE OWNER IS REQUESTED TO PROVIDE. THE OWNER SHALL REFUND THE DEPOSIT WHEN THE PLANS ARE RETURNED TO THE OWNER.

(D) *EXERCISE OF RIGHT TO PURCHASE.*

(1) THE COUNTY OR COMMISSION MAY EXERCISE THE RIGHT TO PURCHASE BY ACCEPTING THE OFFER WITHIN THE APPLICABLE PERIOD UNDER SUBSECTION (B)(3).

(2) THE UNIT MIX OF THE RENTAL HOUSING BROKEN DOWN BY MARKET RATE AND AFFORDABLE UNITS;

(3) A BREAKDOWN OF AFFORDABLE UNITS BY NUMBER AND SIZE OF BEDROOMS;

(4) A BREAKDOWN OF AFFORDABILITY LEVELS FOR THE AFFORDABLE UNITS;

(5) A COMPARISON OF UNIT FINISHES FOR MARKET RATE AND AFFORDABLE UNITS;

(6) A COMPARISON OF ADDITIONAL FEES BEYOND RENT FOR MARKET RATE AND AFFORDABLE UNITS;

(7) CAPITAL INVESTMENTS AND AMENITIES MADE OR PLANNED FOR THE PROPERTY;

(8) THE GENERAL CONDITION AND PLANNED MAINTENANCE FOR THE PROPERTY;

(9) HOW THE OVERALL NUMBER OF EXISTING AFFORDABLE UNITS IN THE COUNTY RELATES TO THE AFFORDABLE HOUSING NEEDS, INCLUDING UNMET HOUSING DEMAND, IDENTIFIED IN THE MOST CURRENT HOUSING OPPORTUNITIES MASTER PLAN OR SIMILAR PLAN APPROVED BY THE COUNTY COUNCIL; AND

(10) A MAP SHOWING THE LOCATIONS AND TOTALS BY LOCATION OF (I) THE EXISTING AFFORDABLE UNITS IN THE COUNTY, (II) THE MARKET RATE UNITS, (III) THE APPROVED BUT NOT BUILT AFFORDABLE UNITS AND MARKET RATE UNITS; AND (IV) HOUSING UNIT ALLOCATIONS GRANTED FOR BOTH AFFORDABLE UNITS AND MARKET RATE UNITS.

Section 2. And Be It Further Enacted *by the County Council of Howard County, Maryland, that this Act shall become effective 61 days after its enactment.*

(1) Any information about the rental housing relevant to purchasing the rental housing, such as architectural and engineering plans and specifications, and operating data; or

(2) Access to the rental housing to inspect the property and conduct reasonable tests at reasonable times after reasonable notice.

(c) *The Department or Commission.* The Department or Commission may make an offer to purchase the rental housing in accordance with section 13.407. [[At least 20 percent of the units of any rental housing purchased by the Department or Commission shall be maintained as affordable to persons of moderate income as defined in subtitle 4 of this title.]]

SECTION 13.1405. AFFORDABLE UNITS.

AT LEAST 20 PERCENT OF THE UNITS OF ANY RENTAL HOUSING PURCHASED BY THE DEPARTMENT OR THE COMMISSION SHALL BE MAINTAINED AS AFFORDABLE, IN PERPETUITY, TO HOUSEHOLDS WITH INCOME AT LEVELS AT OR BELOW THE MODERATE-INCOME LEVEL AS DEFINED IN SECTION 13.1303(I) OF THIS CODE.

Sec. 13.[[1404]]1406. - Regulations.

The Department may adopt regulations to implement this section.

Sec. 13.[[1405]]1407. - Annual reports to the Council.

Subject to section 22.1000 of the County Code, by February 1 of each year, the Department AND THE COMMISSION shall report AND PRESENT to the Council on activities under this subtitle for the prior calendar year, including:

(a) Any notice of offer to sell received by the Department or Commission; and

(b) The number of rental units the Department or Commission acquired[[.]], SPECIFICALLY:

(1) THE LOCATION OF AFFORDABLE UNITS;

(3) ANY TRANSFER MADE PURSUANT TO A JUDICIAL SALE OR OTHER JUDICIAL PROCEEDING BROUGHT TO SECURE PAYMENT OF A DEBT OR FOR THE PURPOSE OF SECURING THE PERFORMANCE OF AN OBLIGATION;

(4) ANY TRANSFER OF THE INTEREST OF ONE CO-TENANT TO ANOTHER CO-TENANT BY OPERATION OF LAW OR OTHERWISE;

(5) ANY TRANSFER MADE BY WILL OR DESCENT OR BY INTESTATE DISTRIBUTION;

(6) ANY TRANSFER MADE TO ANY MUNICIPAL, COUNTY OR STATE GOVERNMENT OR TO ANY AGENCIES, INSTRUMENTALITIES OR POLITICAL SUBDIVISIONS THEREOF;

(7) ANY TRANSFER TO AN OWNER'S SPOUSE OR CHILD; OR

(8) ANY TRANSFER INTO A PARTNERSHIP OR CORPORATION WHOLLY OWNED BY THE PERSON(S) SO TRANSFERRING.

(G) *FORGOING THE RIGHT TO PURCHASE FOR AFFORDABLE OR SENIOR UNITS.* IF A RENTAL HOUSING OWNER ENTERS A BINDING AGREEMENT WITH THE COUNTY OR COMMISSION TO DESIGNATE AND MAINTAIN THE GREATER OF EITHER THE EXISTING PERCENTAGE OR AT LEAST 20 PERCENT OF THE UNITS IN THE RENTAL HOUSING OFFERED FOR SALE CLASSIFIED AS SENIOR OR AFFORDABLE (AS DEFINED IN SECTION 28.116 OF THE COUNTY CODE) FOR AT LEAST 40 YEARS, THEN THE OWNER DOES NOT HAVE TO OFFER A RIGHT TO PURCHASE AS PROVIDED IN THIS SECTION.

Sec. 13.[[1403]]1404. - Purchase.

(a) *Purchase.* IN ADDITION TO THE RIGHT TO PURCHASE SET FORTH IN SECTION 13.1403, THE [[The]] Department, Commission, or the tenant organization, if any, may negotiate with the owner to purchase the rental housing.

(b) *Information and Inspection.* Upon entering into negotiations and on request the owner shall give the Department, the Commission, and any tenant organization:

(2) THE OWNER SHALL SELL THE RENTAL HOUSING UNDER THE RIGHT TO PURCHASE IF THE ACCEPTANCE INCLUDES SUBSTANTIALLY THE SAME TERMS AND CONDITIONS CONTAINED IN THE OWNER'S BONA FIDE OFFER OR CONTINGENT CONTRACT OF SALE WITH A THIRD PARTY, INCLUDING ANY CONTRACT TERM THAT PROVIDES FOR A REAL ESTATE COMMISSION PAYABLE TO AN INDEPENDENT BROKER, NOT TO EXCEED 3 PERCENT OF THE SALES PRICE. NOTWITHSTANDING THIS GENERAL REQUIREMENT OR ANY TERM OF THE CONTRACT, THE COUNTY OR COMMISSION MAY CONDITION ITS ACCEPTANCE ON OBTAINING FINANCING AT ANY TIME BEFORE THE DEADLINE IN PARAGRAPH (3) FOR COMPLETING THE SALE.

(3) THE OWNER AND THE COUNTY OR COMMISSION SHALL COMPLETE A SALE UNDER THIS SUBSECTION WITHIN 180 DAYS AFTER THE COUNTY OR COMMISSION RECEIVES THE OWNER'S OFFER UNLESS THE PARTIES AGREE IN WRITING TO EXTEND THE 180-DAY PERIOD.

(4) THE RIGHT TO PURCHASE APPLIES IN THE FOLLOWING ORDER OF PRIORITY:

(A) THE COUNTY; AND

(B) COMMISSION.

(E) *EXPIRATION OF RIGHT TO PURCHASE.* IF THE COUNTY AND COMMISSION DO NOT EXERCISE THEIR RIGHTS TO PURCHASE WITHIN THE APPLICABLE PERIOD UNDER SUBSECTION (B)(3), THE OWNER MAY SELL THE RENTAL HOUSING TO THE THIRD-PARTY BUYER UNDER SUBSTANTIALLY THE SAME TERMS AND CONDITIONS OFFERED TO THE COUNTY AND COMMISSION.

(F) *SALES NOT REQUIRING RIGHT TO PURCHASE.* AN OWNER DOES NOT HAVE TO PROVIDE A RIGHT TO PURCHASE FOR THE SALE OF THE FOLLOWING TRANSFERS OF A RENTAL FACILITY:

(1) ANY TRANSFER MADE PURSUANT TO THE TERMS OF A BONA FIDE MORTGAGE OR DEED OF TRUST AGREEMENT;

(2) ANY TRANSFER TO A MORTGAGEE IN LIEU OF FORECLOSURE OR ANY TRANSFER PURSUANT TO ANY OTHER PROCEEDINGS, ARRANGEMENT OR DEED IN LIEU OF FORECLOSURE;