



SUMMARY OF 2021
REAL ESTATE LEGISLATION
Maryland REALTORS®

AFFORDABLE HOUSING AND TAXES

HB 58/SB 117 – Workgroup on Minority Homeownership, Neighborhood Revitalization, and Household Wealth Equity

STATUS: NOT PASSED

Directed the Maryland State Department of Housing and Community Development (DHCD) to staff a workgroup charged with studying, among other provisions, the gap in homeownership rates between people of color and white residents. Although this bill was not passed, elements of the bill's scope of work were added to HB 1239 (see below).

HB 90/SB 687 – State and Local Housing Programs – Affirmatively Furthering Fair Housing

STATUS: PASSED – Effective October 1, 2021 with reports due no later than December 1, 2023

Directs DHCD and local governments to report every 5 years on their efforts to promote fair housing choice and racial and economic integration, as required by the United States Housing and Urban Development (HUD) Agency under the Affirmatively Furthering Fair Housing Rule (AFFH). Directs DHCD to assess their programs under the AFFH. Directs local government to include a local assessment of fair housing efforts in the housing element of their comprehensive plans starting on January 1, 2023.

HB 97/SB 66 – Department of Housing and Community Development – Office of Statewide Broadband – Established (Digital Connectivity Act of 2021)

STATUS: PASSED – Effective April 13th, 2021

Creates a statewide office with the goal of having 98% of Maryland households connected to fast internet by January 1, 2026. The Department will work to put together a plan by July 1, 2022, monitor implementation and establish a fund to assist in expanding broadband by offering a capacity building grant program to local government and nonprofits. Finally, \$300 million of federal CARES Act has been designated for broadband expansion in Maryland.

HB 165 – Maryland Estate Tax – Unified Credit

STATUS: NOT PASSED

Lowered from \$5 million to \$1 million the value of an estate protected from the state estate tax rate.

HB 201 – Income Tax Rates – Capital Gains Income

STATUS: NOT PASSED

Imposes an additional tax of 1% on the capital gains of Maryland taxpayers. Excludes certain assets from the additional 1% tax including: residential property valued at less than \$1 million; employer sponsored retirement plans; IRA accounts; affordable housing owned by a nonprofit; etc.

HB 215/SB 288 – Income Tax – Carried Interest – Additional Tax

STATUS: NOT PASSED

Imposes an additional 17% tax on certain pass-through-entity taxable income. Although the bill exempted real estate partnerships where 80% of the value was held in real estate, it would have been a significant tax increase for some real estate partnerships.

HB 252 – Tax Sales – Owner-Occupied Residential Property

STATUS: PASSED – Effective June 1, 2021 for a period of 2 years and 1 month. At the end of June 30, 2023, the law would expire.

Authorizes local governments to withhold owner-occupied residential property from a tax sale.

HB 557 – Homestead Property Tax Credit – Calculation of Credit for Dwelling Purchased by First-Time Homebuyer

STATUS: NOT PASSED

Although the Homestead Tax Credit is not typically transferable from a seller to a buyer, HB 557 established a process for a homebuyer to receive an additional amount added to the homestead tax credit based on the previous property owner's assessment. The additional assessment amount would be phased out over a 5-year period.

HB 591/SB 258 – Property Tax Exemption – Disabled Veterans

STATUS: NOT PASSED

Expanded the property tax credit for disabled veterans by permitting an 80% disabled veteran to receive the credit. Under current law, a veteran must be 100% disabled.

HB 815 – State Agricultural Land Transfer Tax – Application of Nonagricultural Use Reduction and Exemption

STATUS: PASSED – Effective June 1, 2021

Clarifies that agricultural transfer tax rate changes passed in 2019 (increasing the tax), are not applied to agriculture real estate transactions in which the contract was signed prior to the effective date of the bill but the settlement took place after the effective date. The bill applies the prior tax rates in those cases. Transactions that occurred during this time may apply for a tax refund.

HB 852 – Property Tax – Tax Sales – Homeowner Protection Program

STATUS: PASSED – Effective July 1, 2022

Local tax collector must withhold from tax sale a homeowner registered for the Homeowner Protection Program. A homeowner with a primary residence valued at \$300,000 or less and a combined household income of \$60,000 or less may be eligible to apply for the protection program. An approved applicant may participate in the program for up to 3 years during

which time an ombudsman will work with the homeowner to place him/her on a more sustainable path.

HB 1090 – Department of Housing and Community Development – Partnership Rental Housing Program – Alterations (Mixed-Income Housing Act of 2021)

STATUS: NOT PASSED

Created more mixed-use housing and “middle-housing” choices for Marylanders by establishing a permanent funding source for the Maryland Partnership for Rental Housing program.

HB 1111 – Income Tax – Itemized Deductions

STATUS: NOT PASSED

Authorizes a Maryland taxpayer taking the standard federal tax deduction to itemize their state taxes as if they had itemized their federal taxes. The bill permits individuals to take federal deductions like the mortgage interest deduction and/or state and local property tax deductions against state taxes even when taking the standard deduction federally.

HB 1178 – Income Tax – Subtraction Modification – First-Time Homebuyer Savings Accounts

STATUS: PASSED – Effective July 1, 2021 for tax years starting after December 31, 2020.

Bestows upon first-time homebuyers (who have not owned a home in Maryland in the last 7 years) the ability to contribute up to \$5,000 per year tax-free (state taxes) a year, up to \$50,000 total. The money can be used for any down payment or closing costs listed on the settlement sheet. The accounts may only be created by the first-time buyer (does not allow a third-party like a parent to create an account for a child).

HB 1239/SB 859 – Department of Housing and Community Development – Appraisal Gap from Historic Redlining Financial Assistance Program – Establishment

STATUS: PASSED – Effective July 1, 2021

Directs the Department of Housing and Community Development (DHCD) to study whether there is discrimination in real estate financing, appraisals and community investments and report back to the Legislature.

The bill also creates a grant program for builders who build or remodel property in low-income areas where the sales price of the home is unlikely to cover the cost of construction or rehabilitation. Qualified property (residential property: in a low-income census tract; in a state designated sustainable community; or with an affordable sales price) may qualify for financial assistance (most likely a grant – it prohibits loans) that does not exceed the lesser of 35% of the total cost of eligible construction expenses or 80% of the national median sale price for new homes.

HB 1255 – Homestead and Homeowners’ Property Tax Credits – Access and Eligibility

STATUS: NOT PASSED

Most of the provisions from HB 1255 were included in HB 610 (see below in Real Estate Brokerage/Contracts Section) including notice of the Homestead Tax Credit.

HB 1328/SB 824 – Economic Development – Broadband Providers – Joint Trenching and Fee (Building Out Broadband Act of 2021)

STATUS: PASSED – Effective July 1, 2021

Authorizes local counties to expedite infrastructure projects extending broadband, waive fees and engage in region wide efforts. (Does not apply to local governments in the Washington Suburban Sanitary Commission District). Requires state highway projects to permit joint trenching of broadband infrastructure when a road is opened up for unrelated construction. This section of the bill takes effect on January 1, 2022.

SB 787 – Digital Advertising Gross Revenues, Income, Sales and Use, and Tobacco Taxes – Alterations and Implementation

STATUS: PASSED – Effective Upon Signature of the Governor

Clarifies that certain professional instruction (like “Zoom” continuing education classes) are not subject to the Maryland sales tax imposed on digital products. Also, clarifies other provisions of tax law, including that the digital advertising tax may not be passed down onto customer through a separate fee.

SB 937 – Housing and Community Development – Mortgage, Down Payment, and Settlement Expense Assistance

STATUS: NOT PASSED

Specified that DHCD incorporate student debt more directly in consideration of applications for the Maryland Mortgage Program. The bill also would have required DHCD to give \$10,000 in down payment assistance rather than the \$5,000 to \$7,500 typically given.

REAL ESTATE BROKERAGE AND CONTRACTS

HB 19 – Residential Real Estate Transactions – Escrow Agents and Trust Money

STATUS: PASSED – Effective October 1, 2021

Clarifies the definition of trust money under the law to ensure that only the earnest money held by escrow agent for the down payment is subject to the required disclosure and not other possible escrows (e.g. holding money to repair a window). The law further clarifies that the disclosure applies to residential property (including unimproved property zoned residential) and not commercial property.

HB 384/SB 474/ – Real Property – Sale of Mobile Home Parks – Notice Requirements

STATUS: PASSED – Effective October 1, 2021

A mobile home park owner must notify the park residents of an impending sale of the entire mobile home park at least 30 days before the sale.

HB 399 – Real Property – Required Notice for Contracts of Sale- Zones of Dewatering Influence

STATUS: PASSED – Effective October 1, 2021

Requires a notice to purchasers in Maryland real estate contracts that the property they are considering is located in a zone of dewatering influence. State zones of dewatering influence cover Baltimore, Carroll, Frederick, and Washington Counties. Zones of dewatering influence are susceptible to the formation of sinkholes and an owner of property in these areas is eligible for certain

remedies under law. Additionally, a buyer may add additional insurance on the property to protect against potential damage. If the information is not provided in the contract, the buyer will have a 5-day period to rescind the contract and have the deposit money returned. Does not exempt commercial real estate contracts.

**HB 560 -- Human Relations – Discrimination in Housing – Reentry-into-Society Status
STATUS: NOT PASSED**

Created a new protected class for individuals who have completed a court-ordered sentence of imprisonment. As drafted the bill conflicted with guidance issued by the United States Department of Housing and Urban Development (HUD) that limits a housing provider's consideration of an applicant's past criminal history but does not prohibit it.

**HB 610 – Homeowner's Property Tax Credit – Eligibility of Surviving Family Member
STATUS: PASSED – Effective July 1, 2021**

Requires a residential real estate contract to include a paragraph informing the buyer about the Homestead Tax Credit and a web address to information about it. The contract must state "If you plan to live in this home as your principal residence, you may qualify for the homestead property tax credit. The homestead property tax credit may significantly reduce the amount of property taxes you owe." The bill also requires an information brochure for the credit to be presented at the real estate settlement.

Also clarifies for purposes of the Homeowner's Tax Credit (different than the Homestead Tax Credit) that an eligible homeowner can include a surviving family member (related by blood, adoption, or marriage) as dictated by the terms of a will, trust, non-probate instrument of writing, or the laws of intestate succession. The Homeowner's Tax Credit is only available for homeowners if their property is valued at \$300,000 or less and the homeowner's combined net worth is no more than \$200,000 and their income is no more than \$60,000.

**HB 972 – Real Estate – Workgroup to Study Real Estate Trust Money Distribution
STATUS: NOT PASSED**

Prohibited a seller from continuing to list a property if the seller did not return the deposit money of a previous purchaser when the transaction terminated before sale. This limitation would have been imposed regardless of whether the buyer was owed the deposit money or not. The House amended the bill to create a workgroup to study the timelier release of deposit money to purchasers.

**HB 1095/SB 781 – Real Property – Residential Contract of Sale – Buyer Identification
STATUS: NOT PASSED**

Authorized buyers to sign a real estate contract without their legal name. The intent of the bill was to mask the buyer's identity so that a seller would not be able to discriminate against the buyer based on assumptions made about the buyer's protected class status.

**HB 1213 – Financial Institutions – Determination of Creditworthiness – Evaluation
Rules and Alternative Methods
STATUS: PASSED – Effective October 1, 2021**

Directs lenders when considering whether to accept an application for a primary residential mortgage loan to include consideration of verifiable indications of creditworthiness, such as: history of rent or mortgage payments; history of utility payments; school attendance; work attendance; and other verifiable indications requested by the applicant. The bill would subject all loans to the federal requirements prohibiting discrimination in lending as well.

COMMON OWNERSHIP COMMUNITIES

HB 110/SB 144 – Electric Vehicle Recharging Equipment for Multifamily Units Act STATUS: PASSED – Effective October 1, 2021

A Homeowner’s Association or Condominium bylaw that unreasonably prohibits the installation or use of vehicle recharging equipment in a parking space designated for an owner is void and unenforceable. The unit owner bears the cost of installing and maintaining the equipment as well as the cost of the power.

HB 248 – Condominiums and Homeowners Associations – Rights and Restrictions – Composting

STATUS: PASSED – Effective October 1, 2021

Clarifies that a recorded covenant or restriction (typical in a homeowner’s association or condominium regime) may not unreasonably restrict a dwelling unit owner from contracting with a private entity to collect organic waste materials for composting.

HB 313 – Cooperative Housing Corporations, Condominiums, and Homeowners Associations – Reserve Studies – Statewide

STATUS: NOT PASSED

Required reserve studies every 5 years for Common Ownership Communities.

HB 367 -- Real Property – Regulation of Common Ownership Community Managers STATUS: NOT PASSED

Created a State Board of Common Ownership Community Managers to regulate and oversee Common Ownership Communities. The legislation passed the House of Delegates but was never voted in the Senate.

HB 593/SB 535 – Condominiums and Homeowners Associations – Meeting Requirements

STATUS: PASSED – Effective October 1, 2021

Sets forth a specific process when a Board of Directors meeting is called by an HOA or Condominium and a quorum is not present. The bill permits another meeting to be called within 15 days of that meeting as long as proper notice is provided.

HB 1023/SB 686 – Real Property – Condominiums, Homeowners Associations, and Cooperative Housing Corporations – Virtual Meetings

STATUS: PASSED – Effective June 1, 2021

Notwithstanding the language in a Common Ownership Community’s governing documents, a board of directors may permit certain technology to be used for virtual meetings as long as all residents may participate.

HB 1305 – Condominiums – Mandatory Insurance Coverage – Alterations

STATUS: NOT PASSED

Clarified that single-family, detached dwelling units organized under a condominium regime may provide insurance options like single-family detached housing under an HOA regime. Under current law, the condo association’s insurance coverage covers most of the elements of an individual unit along with elements of the common areas. When the condo is an attached unit that shares walls, floors and ceilings with other units that may make sense. But for detached single-family units, the individual owner should be able to provide their own insurance like in all other single-family detached property sales. At least one Maryland County permits cottage cluster developments if they are developed under a condominium regime. This legislation helps with the marketing and sale of these properties allowing consumers to compare like costs for similar detached housing.

LAND-USE, PROPERTY RIGHTS, AND THE ENVIRONMENT

HB 82/SB 151 – Constitutional Amendment – Environmental Rights

STATUS: NOT PASSED

Provides in the Maryland Constitution that every person has certain environmental rights, including the preservation of the natural, scenic, and historic values of the environment.

HB 322 – Real Property – Restrictions on Use – Low-impact Landscaping

STATUS: PASSED – Effective October 1, 2021

Prohibits the unreasonable restriction of low-impact landscaping such as rain gardens, habitat for wildlife and bees. Even a deed restriction, covenant, or other restriction (whether in a Common Ownership Community or not) may not prohibit such landscaping. The community may still set reasonable design and aesthetic guidelines, and an owner must maintain the property.

HB 407/SB 22 – On-Site Sewage Disposal Systems – Inspection – Licensing

STATUS: PASSED – Effective October 1, 2021 to establish the license

Requires a state license for a Wastewater Property Transfer Inspection. **The license is required for inspections after July 1, 2022.** The Maryland Department of the Environment will develop the program requirements and cost for the license.

HB 512/SB 528 – Coast Smart Siting and Design Criteria – Private Construction or Reconstruction Projects – Application

STATUS: NOT PASSED

Applies Coast Smart siting and design criteria to private projects that disturb more than an acre of land. These design criteria already apply to state buildings and can affect the placement and elevation of property on sites prone to flooding.

[HB 583/SB 414](#) – Climate Solutions Now Act of 2021

STATUS: NOT PASSED

Created a number of requirements to reduce carbon emissions in Maryland. For the property sector, it required newly constructed commercial buildings to meet increasing energy usage reductions resulting in a net zero energy balance by 2033. It also required substantial commercial renovation projects to achieve significant reductions in energy usage.

[HB 877/SB 764](#) – Workgroup on Adaptive Reuse of Vacant Commercial Spaces

STATUS: NOT PASSED

Created a workgroup to examine the reuse of vacant and underutilized commercial properties as mixed-use and residential properties.

PROPERTY MANAGEMENT

[HB 18/SB 154](#) – Landlord and Tenant – Residential Tenants – Right to Counsel

STATUS: PASSED – Effective October 1, 2021

Provides access to counsel for tenants who earn not more than 50% of the median income. Tenants may seek counsel in three situations: eviction for nonpayment of rent; eviction for holding over; and eviction for breach of lease. The bill also requires a 10-day notice to be provided to a tenant before a landlord may file an eviction in court (prior law required 5 days to pass before a landlord could file). The notice will be developed by the Courts and may be delivered by mail, posting, or electronically (if the tenant agrees to electronic communication).

[HB 31](#) – Courts – Surcharges and Payment to Special Funds – Prohibited Lease

Provisions

STATUS: NOT PASSED

As introduced, increased the eviction filing surcharge from \$8 to \$68 and, unlike all other court charges, took away the discretion of the judge to award this court cost to the prevailing party.

[HB 50/SB 967](#) – Landlord and Tenant – Residential Leases – Tenant Rights and Protections (Tenant Protection Act of 2021)

STATUS: NOT PASSED

Made several changes to landlord tenant law, including: extending additional protections to tenants who are victims of domestic violence and stalking; requiring notice if the landlord uses a ratio utility billings (RUBS) system; permitting tenants of apartment buildings free usage of a room for periodic tenant meetings; and when returning a security deposit or portion thereof, provide documentation to the tenant of costs when practicable.

[HB 52/SB 454](#) – Real Property -Eviction Actions – Alterations in Actions for Repossession

STATUS: NOT PASSED

Created an eviction diversion program that would have significantly expanded the length of time to seek an eviction for nonpayment.

HB 104/SB 401 – Landlord-Tenant – Nonrenewal of Lease – Notice Requirements

STATUS: PASSED – Effective October 1, 2021

Extends from 30 days to 60 days the notice that must be given to a tenant when a landlord chooses not to renew a residential lease if the lease was for less than a year. The bill does not change the notice of 90 days for leases of a year or more and exempts small landlords (less than 5 units) from the extended 60-day period if the landlord is being foreclosed upon (the foreclosure exemption does not apply in Montgomery or Baltimore City where the local law already provided for a 60-day notice).

HB 112 – Residential Property – Eviction Proceedings – Sealing of Court Records

STATUS: NOT PASSED

Sealed eviction records over three years old from being used in court proceedings like evictions. Would permit immediate sealing in certain instances such as when a landlord was found in violation of current law.

HB 129/SB 70 – Environment – Mold Inspections – Standards, Reporting, and Penalties

STATUS: NOT PASSED

Created an annual mold inspection requirement for all residential rental property in Maryland.

HB 239/ SB 73 – State Real Estate Commission – Property Managers – Registration

STATUS: NOT PASSED

Required many property managers to register with the Maryland Real Estate Commission and carry at least a \$100,000 surety bond to conduct real property management services. The legislation exempted certain activities as well as property managers who already hold a real estate license.

HB 729/SB 530 – Landlord and Tenant – Eviction Actions – Filing Surcharge and Prohibited Lease Provisions

STATUS: NOT PASSED

Increased the filing fee for summary ejectment, breach of lease or tenant holding over actions from \$8 to \$120. The legislation also made the court cost unrecoverable by the landlord rather than keeping discretion with the Judge to award that cost.

HB 785 – Landlord and Tenant – Commencement of Action to Repossess for Failure to Pay Rent – Required Notice and Grace Period

STATUS: NOT PASSED

Lengthened the time before a landlord can file a nonpayment of rent case and required a notice with return-receipt to start the time trigger.

HB 861/SB 691 – Real Property – Landlord and Tenant – Reusable Tenant Screening Reports

STATUS: PASSED – Effective October 1, 2021

Provides that tenants may use “reusable” tenant screening reports if accepted by a landlord. If a landlord chooses to accept a “reusable” tenant screening report, the landlord may not charge a rental application fee. If a landlord chooses NOT to accept “reusable” tenant screening reports, the landlord must notify tenants that such reports are not accepted.

HB 952 – Real Property – Sale of Apartment Facilities – Rights of Qualified Organizations

STATUS: NOT PASSED

Applied to the sale of apartment buildings and created a right of first refusal for housing authorities, nonprofit corporations, or senior apartment facilities.

HB 960 – Landlord and Tenant – Lease Agreements – Estoppel Certificates and Subordination, Non-Disturbance, and Attornment Agreements

STATUS: NOT PASSED

Prohibited a landlord from including an estoppel certificate, subordination, non-disturbance, and attornment agreement in a lease.

HB 1008 – Failure to Pay Rent Proceedings – Sealing of Court Records

STATUS: NOT PASSED

Gave tenants the right to seal an eviction record over one year old.

HB 1069 – Water Supply – Private Well Safety Program

STATUS: PASSED

Provides that residential rental property that uses well water must test the well water every three years. If a well is contaminated, the landlord is given three choices: providing a potable water source; remediating the contamination; or providing the tenant with the ability to terminate the lease. Landlords who fail to test their well are subject to a fine up to \$1,000. The original bill would have established point-of-sale requirements for well testing, and a transfer tax increase to fund it.

HB 1283 – Real Property – Residential Leases – Rent Restrictions

STATUS: NOT PASSED

Imposed rent stabilization on certain rental units statewide. As drafted the bill limited annual rent increases for certain properties to no more than 0.2% or 0.4%.

HB 1312/SB 910 – Landlord and Tenant – Eviction Actions – Catastrophic Health Emergencies

STATUS: NOT PASSED

Created permanent authority for an eviction moratorium and rent control during future catastrophic health emergencies. As drafted, the bill would have established “just cause” evictions that limit the situations in which landlords can choose not to renew a lease.

SB 130 – Landlord and Tenant – Failure to Pay Rent -Fee Limit During Emergencies

STATUS: NOT PASSED

Imposed a limit on late fees during the current emergency orders related to COVID-19 and for 9 months after the state of emergency.

SB 628 – Landlord and Tenant – Establishment of Ren Escrow Accounts – Time Limit

STATUS: NOT PASSED

Created a more subjective process for reviewing some rental applications in order to qualify other ineligible applicants. Such efforts run counter to federal guidance that typically recommends that property managers and landlords to have more objective and neutral policies that apply to renters. The bill would have required special consideration given to certain tenants. The bill also would have required exceptions to certain income restrictions.

[SB 892](#) – Real Property – Residential Leases – Fee in lieu of Security Deposit

STATUS: Referred to Interim Study

The bill did not pass but will be studied by legislative staff before the start of the next legislative session. As drafted, the bill permitted a tenant and landlord to agree to use a fee-in-lieu instead of a security deposit.

COMMERCIAL

[HB 719/SB 582](#) – Commercial Tenants – Personal Liability Clauses – Enforceability

STATUS: PASSED

Specifies that a personal liability clause in a commercial lease (nonresidential) is unenforceable if the default occurred between March 23, 2020 and September 30, 2020, inclusive. The unenforceability extends only during the State of Emergency and for 180 days after the declared end of the emergency. Additionally, the tenant may stay the unenforceability only if the tenant was ordered to cease operations during that time or the business was not designated essential. Once the state of emergency is over along with the 180 extension, a commercial landlord may once again seek enforcement of the personal liability clause.

[HB 1218](#) – Estoppel Certificates – Notice of Receipt by Landlord

STATUS: NOT PASSED

Specified the contents of an estoppel agreement and requires the landlord to communicate with the tenant about any disagreement with the contents of the estoppel certificate.

[HB 1220](#) – Landlord and Tenant – Cancellation or Renewal of Lease – Notification

Requirement

STATUS: NOT PASSED

Required a specific process for a landlord to communicate with a tenant about the cancellation or renewal of a lease. The notification would have had to include mail even if the landlord and tenant agreed to communicate electronically.

[HB 866](#) – Environment – Business Recycling Reporting Requirements

STATUS: NOT PASSED

Required businesses to submit a recycling report to local government on or before March 1 every year. The business would be required to track the amount of recycled material by weight and type.

MISCELLANEOUS

HB 1299 – Education – Public High Schools – Financial Literacy Curriculum and Graduation Requirement

STATUS: NOT PASSED

Required a half-semester course in financial literacy for every high school student as part of the graduation requirement.