

SUMMARY OF 2014 REAL ESTATE LEGISLATION

Maryland Association of REALTORS®

AFFORDABLE HOUSING AND TAXES

<u>HB 223</u> – Property Tax Credit – Urban Agricultural Property – Applicability STATUS: PASSED – Effective June 1, 2014

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

HB 510 – Sustainable Communities Tax Credit Program – Extension and Alteration STATUS: Passed – Effective June 1, 2014

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

<u>HB 524</u> – Income Tax – Expensing of Business Property and Bonus Depreciation STATUS: NOT PASSED

Would unify Maryland's tax treatment of the expensing of business property with the more generous federal tax treatment.

HB 739/SB 602 – Maryland Estate Tax – Unified Credit STATUS: PASSED – Effective January 1, 2015

Unifies the Maryland estate tax credit with the federal estate tax credit by January 1, 2019 by phasing it in over the next 5 years. The legislation sets the following schedule: 2015 - \$1.5

million credit; 2016 - \$2 million credit; 2017 -- \$3 million credit; 2018 -- \$4 million credit; and 2019 – fully unified with federal credit. Currently, the Maryland credit is only \$1,000,000 while the federal credit is over \$5,000,000.

<u>HB 742/SB 600</u> – Regional Institution Strategic Enterprise Zone Programs STATUS: PASSED – Effective June 1, 2014

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

<u>HB 923/SB 596</u> – Income Tax Subtraction Modification – Mortgage Forgiveness Debt Relief - Extension

STATUS: PASSED – Effective July 1, 2014

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

REAL ESTATE BROKERAGE AND CONTRACTS

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

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

<u>HB 595</u> – Real Property – Foreclosure of Residential Property – Certified Community Development Financial Institutions

STATUS: PASSED - Effective April 14, 2014

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

HB 1529/SB 1095 – Real Property – Ground Rents STATUS: NOT PASSED

Limited certain charges related to the collection and enforcement of ground rents. The legislation was introduced in response to the Maryland Court of Appeals case, *Maryland v. Stanley Goldberg et al* which invalidated the "lien remedy" passed by the Legislature in 2007. The lien remedy replaced a long standing "ejectment" remedy which allowed a ground rent owner to evict a homeowner/ground rent tenant from the homeowner's house. As a result of *Goldberg* ground rent owners may once again eject tenants who have not paid a ground rent.

SB 212 – Fairness for All Marylanders Act of 2014 STATUS: PASSED – Effective October 1, 2014

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

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

STATUS: PASSED – Effective January 1, 2015

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

COMMON OWNERSHIP COMMUNITIES

HB 10 – Real Property – Regulation of Common Ownership Community Managers STATUS: NOT PASSED

Required licensing of common ownership community managers. Common ownership communities are condominiums and homeowner associations. The bill also would have provided some exemptions from licensing for real estate licensees and other categories.

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

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

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

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

$\underline{HB~1080}/SB~820$ – Condominium and Homeowners Associations – Sales – Disclosure and Cancellation Requirements

STATUS: NOT PASSED

Would have implemented more uniform condo and HOA resale package disclosure requirements. Under current law, these disclosures have different triggers and time frames for consumers to cancel contracts. The bills would have created the same time frames for almost all condo and HOA sales. The bills did not pass due to opposition from the Attorney General's office and managers of condo and HOA associations.

LAND-USE, PROPERTY RIGHTS, AND THE ENVIRONMENT

<u>HB 11</u> – Environment – Bay Restoration Fund – Authorized Uses STATUS: PASSED – Effective June 1, 2014

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

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

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

SB 170 – Budget Bill (Fiscal Year 2015)

STATUS: PASSED – Effective July 1, 2014

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

SB 172 – Budget Reconciliation and Financing Act of 2014 STATUS: PASSED – Effective June 1, 2014

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

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

STATUS: PASSED – Effective June 1, 2014

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

SB 947 – Real Property – Blighted Property – Nuisance Abatement STATUS: DEFEATED

Required owners of blighted property to fix up the properties or face a fine equal to a tripling of the annual property taxes. An owner could avoid the fine by selling the property.

PROPERTY MANAGEMENT

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

STATUS: PASSED – Effective April 8th, 2014

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

<u>HB 249/SB 345</u> -- Real Property – Residential Leases – Interest on Security Deposits STATUS: PASSED – Effective January 1, 2015

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

HB 366 – Home Act of 2014

STATUS: DEFEATED

Established "source of income" as a protected class under Maryland law.

<u>HB 843</u> – Residential Leases – Just Cause Evictions

STATUS: DEFEATED

Redefined eviction to include a landlord's refusal to renew a lease on substantially similar terms. Changing the lease duration, increasing the rent (due to increasing costs) would all be different terms that could be deemed an "eviction" under the bill and thus subject to new standards of review.

HB 888 – Environment – Reduction of Lead Risk in Housing – Applicability and Registration Requirements

STATUS: NOT PASSED

Clarified that property owners with units built between 1950 -1978 must pay the \$30 registration fee under the Reduction of Lead Risk in Housing Act but are not required to participate in the program. Legislation passed in 2013 required these properties to pay the fee and meet program requirements.

<u>HB 1280</u> – Landlord and Tenant – Prohibited Lease Provisions – Renter's Insurance Naming Landlord as Beneficiary

STATUS: DEFEATED

Prohibited a landlord from requiring a tenant to carry renter's insurance which named the landlord as beneficiary or additional insured.

SB 800 – Landlord and Tenant – Retaliatory Actions – Conditions for Relief STATUS: PASSED - Effective October 1, 2014

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

SB 904 - Residential Leases - Rental Fees - Landlord and Tenant Relations (Maryland Rental Housing Stabilization Act)

STATUS: DEFEATED

Created a statewide Rental Housing Authority. Once established, the Rental Housing Authority would oversee every residential lease signed in Maryland. If a landlord failed to submit a copy of a signed lease to the authority within 30 days of the lease signing, the landlord would be prohibited from enforcing the lease. The Authority would be charged with regulating any rent increases and requiring registration of all rental units. Property owners would be charged 1% of the value of their rental property to fund the Rental Housing Authority.

COMMERCIAL

<u>HB 202/SB 186</u> – Clean Energy Loan Programs – Private Lenders – Collection of Loan Payments

STATUS: PASSED – Effective October 1, 2014

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

<u>HB 268</u> – Corporations and Associations – Limited Liability Companies – Company Representatives

STATUS: DEFEATED

Required Limited Liability Companies (LLCs) to pay to register a "company representative" even though these companies already register a "resident agent."

HB 1210/SB 706 – Environment – Permit Determinations – Cumulative Impact

Assessments

STATUS: DEFEATED

Required a cumulative impact assessment for certain permit decisions issued by the Maryland Department of Environment (MDE). Before a company could certain permits (i.e. landfill, air, water) affected by the bill, MDE would be empowered to consider the effects of other permits issued in the community.

MISCELLANEOUS

<u>HB 430</u> – Commercial Law – Patent Infringement – Assertions Made in Bad Faith STATUS: PASSED – Effective October 1, 2014

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

HB 1403 – Homestead Exemption – Bankruptcy – Interest in Manufactured Home STATUS: PASSED – Effective October 1, 2014

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

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