



SUMMARY OF 2020
REAL ESTATE LEGISLATION
Maryland REALTORS®

AFFORDABLE HOUSING AND TAXES

HB 222 – Income Tax Rates – Capital Gains Income

STATUS: NOT PASSED

Imposes an additional tax of 1% on capital gains of Marylander taxpayers, including gains from the sale of real property.

HB 257/SB 417 – Property Tax – Credit for Disabled Veterans

STATUS: PASSED – Effective June 1, 2020 for tax years starting after June 30, 2020.

Enables local county and municipal governments to grant tax credits against property taxes for disabled veterans and their spouses. The tax credit can be granted for a 50% disability.

HB 411 – Homestead Property Tax Credit – Calculation of Credit for Dwelling

Purchased by First-Time Homebuyer

STATUS: NOT PASSED

Establishes a process for a first-time homebuyer to receive a homestead tax credit based on the previous property owner's assessment. The additional homestead amount would phase out over a period of 6 years.

HB 439 – Income Tax – Carried Interest – Additional Tax

STATUS: NOT PASSED

Imposes an additional 17% tax on pass-through-entity taxable income. Would have levied this extremely high tax on many real estate partnerships despite an attempt to exempt out partnerships where 80% of the value was held in real estate.

HB 472/SB 387 – Housing – Community Development Program Act – Funding

STATUS: NOT PASSED

Designates that \$5 million from the Abandoned Property Special Fund be transferred to the Community Development Program Fund (CDPF) which provides grants for affordable housing and housing counseling among other community projects.

HB 529/SB 256 – Circuit Court Real Property Records Improvement Fund – Surcharge on Recordable Instruments

STATUS: NOT PASSED

Permanently increases a surcharge for recordable instruments designated for the Circuit Court Real Property Records Improvement Fund. Because the bill did not pass, the surcharge will drop from \$40 to \$20 on July 1, 2020.

HB 563 – Income Tax – Lead Remediation Credit

STATUS: NOT PASSED

Creates a tax credit for lead hazard reduction work up to a cap of \$5,000 per unit. The total cost of the tax credits granted in a year could not exceed \$250,000.

HB 566/SB 713 – Opportunity Zone Enhancement Program – Eligibility – Lead-Based Paint Affected Properties

STATUS: PASSED – Effective July 1, 2020, for tax years starting after December 31, 2019.

Clarifies that applicants for Opportunity Zone Property Tax Credits must ensure the property complies with the State Lead Poisoning Prevention Program.

HB 759 – Historic Revitalization Tax Credit – Expansion – Rehabilitations of Common Elements of Condominiums and Cooperative Projects

STATUS: PASSED – Effective July 1, 2020, for tax years starting after December 31, 2019.

Authorizes condominiums and cooperatives to apply for the small commercial project historic tax credits if the project involves the common elements of the structure.

HB 766/SB 700 – Property Tax Credit – Disabled Military Personnel and Surviving Spouses

STATUS: PASSED – Effective June 1, 2020, for tax years starting after June 30, 2020.

Changes the enabling statute granting authority for property tax credits to disabled military personnel and their spouses. The statute now specifies that these individuals may receive a property tax credit even if they are not retired and have not lived in the property for the last 40 years (requirements under the old law). Local governments have authority to establish different criteria for the credit. The credit may not exceed 20% of the total tax and may be granted for up to 5 years.

HB 788/ SB 486 – 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 862/SB 978 – Historic Revitalization Tax Credit – Transferability (Historic Revitalization Tax Credit Improvement Act of 2020)

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

Authorizes the Historic Revitalization Tax Credit to be transferred to a third party involved in the transaction like a bank or other investor. Transferability helps monetize the credit thereby increasing the pool of potential investors for projects.

HB 913/SB 631 – Income Tax Standard Deduction- Alteration and Cost of Living
STATUS: NOT PASSED

More than doubles the Maryland Standard Deduction making it more comparable to the standard deduction in Virginia.

HB 932/SB 1001 – 21st-Century Economy Fairness Act
STATUS: PASSED – Vetoed May 7, 2020.

Imposes the sales and use tax on certain digital products like music, e-books, and videos.

HB 980/SB 775 – Income Tax – Energy Storage Tax Credit – Alterations
STATUS: PASSED – Effective July 1, 2020, for tax years starting after December 31, 2020.

Authorizes a tax credit for residential and commercial property owners against the costs of installing an energy storage system. The credit may not exceed \$5,000 for residential applicants and \$150,000 for commercial applicants. Total credit amounts may not exceed \$750,000 annually.

HB 1076 – Homestead Property Tax Credit – Date of Transfer of Dwelling
STATUS: PASSED – Effective June 1, 2020.

Clarifies that a deed recorded after the start of Maryland's new fiscal year (July 1) may use the date of transfer of the property (between January 1 – July 1) to ensure the homeowner's homestead tax credit is not delayed an additional year.

HB 1099/SB 822 – Housing and Community Development – Down Payment and Settlement Expense Loan Program – Homebuyer Education Requirements
STATUS: NOT PASSED

Requires recipients of the Maryland Mortgage Program loans to receive homebuyer education before signing a contract of sale. Although it is best if recipients receive education before signing a contract, HB 1099 would disqualify many homebuyers from the MMP loans and down payment assistance if they had already signed a contract.

HB 1149/SB 1013 – Department of Housing and Community Development - Social Housing Subprogram (Social Housing Act)
STATUS: NOT PASSED

Increases the state transfer tax on homes over \$1 million while lowering the state transfer tax on properties valued at or less than \$250,000 in order to fund a voluntary Social Housing Program for local governments. The bill also imposed a recordation surcharge of \$75 to fund the program.

HB 1189/SB 63 – Baltimore City – Property Tax Credit for Newly Constructed Dwellings – Reauthorization and Modification
STATUS: PASSED – Effective June 1, 2020 for tax years after June 30, 2020 and expires on June 30, 2025.

Reauthorizes the Baltimore City Property Tax Credit for newly constructed dwellings and changes the eligibility to properties assessed at \$500,000 or less. The tax credit may be applied to new construction or substantial rehabilitation of a property.

HB 1200 – Property Tax – Credit to Offset Increases in Local Income Tax Revenues – Eligibility

STATUS: PASSED – Effective June 1, 2022 for tax years after June 30, 2022.

Clarifies that the property tax credit which offsets income tax increases is available only for principal homes receiving the Homestead Tax Credit.

HB 1567/SB 715 – Housing and Community Development - Affordable Housing Development Credit Program

STATUS: NOT PASSED

Creates a tax credit against the State income tax for the owner of a low-income housing project. The program would be capped at \$5 million a year and follow other limits similar to those in the Federal Low-Income Housing Credit program.

HB 1628 – Sales and Use Tax – Rate Reduction and Services

STATUS: NOT PASSED

Extended the sale and use tax to almost all services in Maryland, including real estate services. *Over 700 Maryland REALTORS® rallied at the Maryland State House in opposition to this bill.* Another bill which taxed fewer (non-real estate services), HB 1354, also failed to pass.

SB 48 – Property Tax – Homeowners’ and Renters’ Property Tax Credits – Deadlines

STATUS: PASSED – Effective June 1, 2020 for tax years beginning after June 30, 2020.

Extends from September 1 to October 1 the amount of time available to apply for the Renters or Homeowners tax credit (not the Homestead Exemption) and requires the State Department of Assessments and Taxation (SDAT) to make available the Homeowner’s tax credit application by February 15.

SB 523 – Income Tax – Pass-Through Entities and Corporations

STATUS: PASSED – Effective July 1, 2020 for tax years beginning after December 31, 2019.

Authorizes small businesses to use pass-through entities to avoid the credit and deduction limitations placed on individuals under the federal tax reform legislation, including the \$10,000 cap on the deduction for state and local property taxes.

REAL ESTATE BROKERAGE AND CONTRACTS

HB 93/SB 155 – Consumer Protection – Mobile Home Purchasers

STATUS: PASSED – Effective October 1, 2020.

Establishes a duty of good faith, restrictions on steering, and notice about foreclosure on mobile home retailers.

HB 94/SB 152 – Estates and Trusts – Rule Against Perpetuities

STATUS: PASSED – Effective October 1, 2020.

Clarifies that a statutory exemption to the Rule Against Perpetuities applies only to lease options that may be exercisable during the time of the lease. Options extending beyond the lease would be void. The Rule Against Perpetuities ensures that non-vested future interests are valid only if they vest not later than twenty-one years after a life in being at the creation of the interest.

HB 116/SB 164 – Home Builder Guaranty Fund – Award Limitations – Revisions

STATUS: PASSED – Effective October 1, 2020.

Increases the aggregate limitation on Home Builder guarantee fund payouts to \$500,000 from \$300,000. Individual payouts are still limited to \$50,000.

HB 149 – Real Property – Ground Leases – Required Notifications – Private Transaction Redemptions

STATUS: PASSED – Effective October 1, 2020.

Clarifies that a leasehold tenant may notify the State Department of Assessments (SDAT) about a ground lease redemption. Although the ground rent holder is required to notify SDAT, many times the owner fails to notify SDAT.

HB 172 – Real Property – Ground Leases – Repeal of Registration Fees

STATUS: PASSED – Effective October 1, 2020.

Repeals the registration fee for ground rent registrations.

HB 178 – Real Property – Required Notices for Contracts of Sale – Zones of Dewatering Influence

STATUS: NOT PASSED

As amended, requires a buyer notice in residential real estate contracts informing buyers in Baltimore, Carroll, Frederick, and Washington Counties about the state designated dewatering zones. Dewatering zones are areas affected by surface mining operations which may result in sink holes.

HB 241/SB 170 – Real Property – Ground Leases – Past Due Ground Rent

STATUS: PASSED – Effective October 1, 2020.

Permits title companies to stop escrowing three years' worth of ground rent if the ground rent was never registered.

HB 314 – Real Property – Lien Priority of Refinance Mortgages – Exception for Government Junior Mortgages

STATUS: PASSED – Effective June 1, 2020

Ensures that the Department of Housing and Community Development (DHCD) is notified when a participant in the Maryland Mortgage Program refinances a loan so that the Department can recapture the downpayment assistance loan which is a junior lien to that MMP loan.

HB 349/SB 280 – Occupational and Professional Licensing – Service Members, Veterans, and Military Spouses – Revisions to Reciprocity Requirements
STATUS: PASSED – Effective October 1, 2020.

Amends the expedited licensing law for licensing bodies like the Real Estate Commission. Clarifies that a service member, veteran or military spouse can receive an expedited license based on the individual having held the same license in good standing in another state for at least one year. It clarifies that an applicant seeking multiple licenses must show good standing for all the licenses.

HB 481/SB 131 – State Highways – Commercial Signs in Rights-of-Way – Penalties
STATUS: PASSED – Effective October 1, 2020.

Although these bills were not identical, both increased the penalties for violations of commercial signs in state right-of-ways. SB 131 was passed and keeps the current fine at \$25 but increases the fine to \$100 if the commercial sign is affixed to a state sign, signal or marker. HB 481 would have increased all fines to a maximum of \$1,000 but did not pass.

HB 929 – State Real Estate Commission – Property Managers – Registration
STATUS: NOT PASSED

Requires many property managers to register with the Maryland Real Estate Commission and carry at least \$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. The bill passed the House but was never voted in the Senate.

HB 1006 – Real Estate Brokers – Exemption for Auctioneers – Repeal
STATUS: NOT PASSED

Removes the exemption for auctioneers from the real estate licensing act, thereby requiring auctioneers to obtain a real estate license if the auctioneer offers real estate for auction. Because the exemption from the real estate licensing law only applies to licensed auctioneers and few local governments license auctioneers, many auctioneers already hold a real estate license. There will be an “interim study” of the issue before next session.

HB 1077 – Real Property – Deletion of Unlawful Ownership Restrictions – Exemption from Fees and Surcharges
STATUS: PASSED – Effective October 1, 2020.

Prior legislation created an easier process to remove illegal covenants affecting race, religious belief or national origin from property records for community groups and homeowners. This legislation eliminates the fees associated with recording such documents.

HB 1084/SB 154 – Real Property – Recordation of Deeds – Assignments of Rents and Assignments of Leases for Security Purposes
STATUS: PASSED – Effective October 1, 2020.

Adds assignment of rents and assignment of leases for security purposes to the statute allowing a deed to be recorded or released without needing a certificate of preparation by an attorney admitted to the Maryland Bar.

HB 1182/SB 806 – Real Property – Redemption or Extinguishment of Ground Rents
STATUS: PASSED – Effective October 1, 2020.

Creates a clearer process to redeem a ground rent that may have multiple sub leases.

HB 1444/SB 531 – Discrimination – Definition of Race – Hair Texture and Hairstyles
STATUS: PASSED – Effective October 1, 2020.

Clarifies that certain hairstyles associated with race are included in the definition of race under anti-discrimination laws. Traits associated with race include hair texture, afro hairstyles and protective hairstyles “like braids, twists and locks.”

HB 1446/SB 350 – State Real Estate Commission – Continuing Education Requirements – Ethics and Professionalism

STATUS: PASSED – Effective October 1, 2020

Requires a professionalism component as part of the 3-hour mandatory Ethics Class. Does not increase the total number of hours required for continuing education.

HB 1561 – Discriminatory Housing Practices – Intent

STATUS: NOT PASSED

Establishes a new standard for proving discrimination in housing. Permits a finding of discrimination regardless of a person’s intent.

SB 6 – State Real Estate Commission – Sunset Extension

STATUS: PASSED – Effective October 1, 2020.

Extends the authority of the Real Estate Commission for another 10 years until July 1, 2032.

SB 570 – Real Property – Notice of Easements, Covenants, Restrictions, and Conditions – Recordation

STATUS: PASSED – Effective October 1, 2020.

Authorizes a notice of easement, covenants or other property restriction to be recorded in the land records. Because title searches do not examine the entire title of a property, there are times when easements and other property restrictions are missed. By allowing a notice to be recorded closer to sale, the property restriction is more likely to be discovered by a title search. The bill is not mandatory but allows parties who wish to enforce their rights to record the notice.

SB 636 – Maryland Revised Uniform Law on Notarial Acts – Requirements for Appointment as a Notary Public – Alterations

STATUS: PASSED – Effective October 1, 2020.

The bill delays sections of the Notary law passed year which adds new education requirements and testing for notaries. The bill would have also delayed the provisions of the law permitting remote notarization, but those provisions were amended so that remote notarization could take effect this Fall. Due to the COVID-19 Pandemic, the Governor issued an emergency order making the remote notary provisions in the law effective as of March 30th, 2020. If this emergency order is rescinded before October 1, 2020 and without further direction on this matter, remote notarizations will be suspended until the October 1, 2020 effective date.

COMMON OWNERSHIP COMMUNITIES

HB 25/SB 293 – Condominiums and Homeowners Associations – Amendments to Declarations and Governing Documents

STATUS: PASSED – Effective October 1, 2020.

Changes the notice requirements of Common Ownership Communities (CoCs) to lenders. Sometimes governing documents require the notice and approval of lenders to make changes. This legislation still requires CoCs to give notice but if the lender does not object within 60 days, it is assumed that the lender granted consent. The bill does not apply to amendments altering the priority of the lien or materially impairing the unit as collateral. The bill would also not impair the rights of the holder under the mortgage or deed of trust. In these three instances, the lender must still give express consent.

HB 108/SB 175 – Condominiums – Responsibility for Property Insurance Deductibles

STATUS: PASSED – Effective October 1, 2020.

Makes changes to the current law regarding insurance coverage of condominium common areas. Clarifies that the Condominium association's insurance is responsible for damages to the common areas originating outside of the condominium and not just damages from within the common areas. The bill also clarified that if the damage results from an owner's unit, the owner is responsible for paying the Condominium association's deductible up to \$10,000. That amount can be insured in the owner's policy and was increased from \$5,000.

HB 444 – Homeowners Associations – Powers, Board of Directors, Voting, Meetings, and Rules

STATUS: NOT PASSED

Expands the provisions of the Homeowners Association Act to reflect the greater detail and protections included in the Condominium Act.

HB 592 – Real Property – Regulation of Common Ownership Community Managers

STATUS: NOT PASSED

Creates 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.

LAND-USE, PROPERTY RIGHTS, AND THE ENVIRONMENT

HB 136/SB 254 – Environment – On-Site Wastewater Services – Regulation

STATUS: NOT PASSED

Although not the same bills, as amended both bills license septic inspections; HB 136 would have established the State Board of Wastewater Professionals.

HB 210/SB342 HB 1059/SB 950 – Aquaculture – Leases in Water Column – Riparian Right of First Refusal

STATUS: NOT PASSED

Creates notice for shore owners of aquaculture leases near their property. One of the bills would have provided those shoreline owners with a right of first refusal to purchase the aquaculture lease.

HB 517 – 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. Any person would be able to sue to stop development if the development violated any of these rights.

HB 1080 – 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 1406 – Land-Use – Comprehensive Plan – Middle Housing (Planning for Modest Homes Act of 2020)

STATUS: NOT PASSED

Eliminates zoning restrictions for certain middle-income housing construction. As amended, the bill deleted the zoning override and added additional criteria to the housing element now required for comprehensive plans in Maryland.

HB 1540/SB 1067 – Environment – Mold Inspections – Standards, Reporting, and Penalties

STATUS: NOT PASSED

Requires local governments to conduct annual mold inspections of residential rental units.

PROPERTY MANAGEMENT

HB 20 – Real Property – Residential Rental Property – Annual Eviction Moratorium

STATUS: NOT PASSED

Imposes an annual moratorium on residential rental evictions from December 18 through January 8.

HB 231/SB 530 – Housing Opportunities Made Equal Act

STATUS: PASSED – Effective October 1, 2020

Creates a new protected class for “source of income” for all housing discrimination. As it applies to rentals, this provision would require landlords to accept federal housing vouchers. Landlords would still be able to determine the ability of a tenant to pay rent based on the

tenants income and creditworthiness and using other commercially reasonable and nondiscriminatory methods.

HB 744 – Landlord and Tenant – Residential Leases – Tenant Rights and Protections (Tenant Protection Act)

STATUS: NOT PASSED

Makes several changes to landlord tenant law, including: reducing from 45-30 days the amount of time to return a security deposit; extending additional protections to tenants who are victims of domestic violence and stalking; and reordering some of the current tenant protections under the law.

HB 816 – Real Property – Residential Leases – Voter Registration

STATUS: NOT PASSED

Requires landlords to give tenants over the age of 16 information about voter registration.

HB 929 – State Real Estate Commission – Property Managers – Registration

STATUS: NOT PASSED

Requires many property managers to register with the Maryland Real Estate Commission and carry at least \$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 1372 – Real Property – Residential Leases – Repair of Dangerous Defects and Failure to Pay Rent

STATUS: NOT PASSED

Eliminates the ability of a landlord to proceed with an eviction if the tenant has had 3 prior judgments for nonpayment within the 12-month period of the current action.

Authorizes tenants to file for damages in a case alleging the breach of the warrant of habitability to calculate those damages based on when a landlord “should have known” of the problem rather than when the landlord received actual notice.

COMMERCIAL

HB 988 – Environment – Business Recycling Reporting Requirements

STATUS: NOT PASSED

Requires 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 196/SB 124 – Maryland Health Benefit Exchange – Assessment Applicability and Report on State-Based Individual Market Health Insurance Subsidies

STATUS: PASSED – Effective July 1, 2020.

Requires the Maryland Health Benefit Exchange (MHBE) to report on different subsidies for the individual market.

HB 901/SB 527 – Health Insurance – Policy of Group Health Insurance – Associations

STATUS: NOT PASSED

Permits a Chamber of Commerce to establish an association health plan in Maryland.

HB 930/SB 977 – Maryland health Benefit Exchange – Funding for Small Business Insurance Subsidies and Outreach

STATUS: NOT PASSED

Requires an annual appropriation of \$17 million to expand the Small Business Health Options Program (SHOP). SHOP is intended to assist a small business with at least one employee and no more than 50. Self-employed would not be eligible.

HB 999/SB 540 – Member-Regulated Cooperatives – Establishment (Rural Broadband for the Eastern Shore Act of 2020)

STATUS: PASSED – Emergency legislation that becomes effective upon Governor's signature

Reclassifies Choptank Electric as a member-regulated cooperative that will permit Choptank to provide broadband internet services to its members. The Eastern Shore is one of the most underserved areas of the state for broadband.

HB 1329 – Maryland health Benefit Exchange – Establishment of Small Business Health Insurance Subsidies Program

STATUS: NOT PASSED

Requires the Governor to fund an expansion of the Small Business Health Options Program (SHOP). SHOP is intended to assist a small business with at least one employee and no more than 50. Self-employed would not be eligible.