

Introduced _____
Public Hearing _____
Council Action _____
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 _____, 2020. Ordered posted and hearing scheduled.

By order _____
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 _____, 2020.

By order _____
Diane Schwartz Jones, Administrator

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

By order _____
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.

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

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

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

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

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

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

15 (d) *ENFORCEMENT.*

16 (1) THE DEPARTMENT MAY ENFORCE THIS PROVISION BY:

17 (A) INVESTIGATING ANY ALLEGED VIOLATION;

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

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

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

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

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

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

- 1 (1) REQUIRE COMPLIANCE WITH A SUMMONS OR A SUBPOENA;
2 (2) REQUIRE AN ALLEGED VIOLATOR OR WITNESS TO ATTEND A DEPARTMENT MEETING
3 OR OTHER PROCEEDING CONCERNING THE ALLEGED VIOLATION;
4 (3) REQUIRE PRODUCTION OF DOCUMENTS OR OTHER EVIDENCE;
5 (4) REQUIRE TRANSFER OF DOCUMENTS OR OTHER EVIDENCE TO THE COURT; OR
6 (5) PROHIBIT THE DESTRUCTION OF DOCUMENTS OR OTHER EVIDENCE;
7 (H) ORDERING ANY APPROPRIATE FINANCIAL, LEGAL, OR EQUITABLE RELIEF TO A TENANT
8 INJURED BY A VIOLATION OF THIS CHAPTER;
9 (I) ANY OTHER APPLICABLE ENFORCEMENT ACTION THAT THE DEPARTMENT COULD TAKE
10 TO ENFORCE A VIOLATION;
11 (J) DEVELOPING, CONDUCTING, OR ASSISTING IN EDUCATIONAL AND INFORMATION
12 PROGRAMS CONCERNING THE REQUIREMENTS OF THIS CHAPTER; AND
13 (K) ADOPTING REGULATIONS TO IMPLEMENT THIS CHAPTER.
14

15 (2) THE RENTAL HOUSING LICENSE ISSUED UNDER SUBTITLE 9 OF TITLE 14 OF THIS CODE IS
16 SUBJECT TO REVOCATION BY THE DIRECTOR OF THE HOWARD COUNTY DEPARTMENT OF
17 INSPECTIONS, LICENSES AND PERMITS. IF THE OWNER OF THE RENTAL HOUSING VIOLATES THE
18 PROVISIONS OF 13.1403, THEN REVOCATION MAY OCCUR AFTER SERVICE OF NOTICE DESCRIBING
19 THE VIOLATION UNDER THIS SUBTITLE AND A REASONABLE OPPORTUNITY TO CURE THE
20 VIOLATION. NOTICE SHALL BE SERVED IN ACCORDANCE WITH THE PROVISIONS OF SECTION
21 14.903(C).
22

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

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

25 (G) NOTHING HEREIN CREATES A THIRD-PARTY RIGHT IN ANY INDIVIDUAL TENANT.
26

27 **SECTION 13.1403. – RIGHT TO PURCHASE**

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

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

5 (1) BE IN WRITING;

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

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

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

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

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

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

22 (D) *EXERCISE OF RIGHT TO PURCHASE.*

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

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

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

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

13 (A) THE COUNTY; AND

14 (B) COMMISSION.

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

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

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

23 (2) ANY TRANSFER TO A MORTGAGEE IN LIEU OF FORECLOSURE OR ANY TRANSFER
24 PURSUANT TO ANY OTHER PROCEEDINGS, ARRANGEMENT OR DEED IN LIEU OF
25 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 (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. 13.1404. - 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:

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

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

5 (c) *The Department or Commission.* The Department or Commission may make an offer to
6 purchase the rental housing in accordance with section 13.407. [[At least 20 percent of the
7 units of any rental housing purchased by the Department or Commission shall be maintained
8 as affordable to persons of moderate income as defined in subtitle 4 of this title.]]
9

10 **SECTION 13.1405. AFFORDABLE UNITS.**

11 AT LEAST 20 PERCENT OF THE UNITS OF ANY RENTAL HOUSING PURCHASED BY THE DEPARTMENT
12 OR THE COMMISSION SHALL BE MAINTAINED AS AFFORDABLE, IN PERPETUITY, TO HOUSEHOLDS
13 WITH INCOME AT LEVELS AT OR BELOW THE MODERATE-INCOME LEVEL AS DEFINED IN SECTION
14 13.1303(I) OF THIS CODE.
15

16 **Sec. 13.1406. - Regulations.**

17 The Department may adopt regulations to implement this section.
18

19 **Sec. 13.1407. - Annual reports to the Council.**

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

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

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

25 (1) THE LOCATION OF AFFORDABLE UNITS;

- 1 (2) THE UNIT MIX OF THE RENTAL HOUSING BROKEN DOWN BY MARKET RATE AND
2 AFFORDABLE UNITS;
3 (3) A BREAKDOWN OF AFFORDABLE UNITS BY NUMBER AND SIZE OF BEDROOMS;
4 (4) A BREAKDOWN OF AFFORDABILITY LEVELS FOR THE AFFORDABLE UNITS;
5 (5) A COMPARISON OF UNIT FINISHES FOR MARKET RATE AND AFFORDABLE UNITS;
6 (6) A COMPARISON OF ADDITIONAL FEES BEYOND RENT FOR MARKET RATE AND
7 AFFORDABLE UNITS;
8 (7) CAPITAL INVESTMENTS AND AMENITIES MADE OR PLANNED FOR THE PROPERTY;
9 (8) THE GENERAL CONDITION AND PLANNED MAINTENANCE FOR THE PROPERTY;
10 (9) HOW THE OVERALL NUMBER OF EXISTING AFFORDABLE UNITS IN THE COUNTY
11 RELATES TO THE AFFORDABLE HOUSING NEEDS, INCLUDING UNMET HOUSING
12 DEMAND, IDENTIFIED IN THE MOST CURRENT HOUSING OPPORTUNITIES MASTER
13 PLAN OR SIMILAR PLAN APPROVED BY THE COUNTY COUNCIL; AND
14
15 (10) A MAP SHOWING THE LOCATIONS AND TOTALS BY LOCATION OF (I) THE EXISTING
16 AFFORDABLE UNITS IN THE COUNTY, (II) THE MARKET RATE UNITS, (III) THE APPROVED
17 BUT NOT BUILT AFFORDABLE UNITS AND MARKET RATE UNITS; AND (IV) HOUSING UNIT
18 ALLOCATIONS GRANTED FOR BOTH AFFORDABLE UNITS AND MARKET RATE UNITS.
19

20 ***Section 2. And Be It Further Enacted*** by the County Council of Howard County,
21 *Maryland, that this Act shall become effective 61 days after its enactment.*
22
23
24