

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
1995 Legislative Session

Bill No. _____ CB-101-1995

Chapter No.

Proposed and Presented by Chairwoman MacKinnon (by request - County Executive)

Introduced by

Co-Sponsors

Date of Introduction

BILL

AN ACT concerning

Moderately Priced Housing

For the purpose of amending the County's Moderately Priced Dwelling Unit Program regarding certain right of first refusal, alternative method of compliance, resale of units, and certain administrative provisions.

BY repealing and reenacting with amendments:

SUBTITLE 10. FINANCE AND TAXATION.

Section 10-261.01,

The Prince George's County Code

(1991 Edition, 1994 Supplement).

BY repealing and reenacting with amendments:

SUBTITLE 13. HOUSING AND PROPERTY STANDARDS.

Sections 13-248, 13-249, 13-251, 13-252, 13-254, 13-255, and

13-257,

The Prince George's County Code

(1991 Edition, 1994 Supplement).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Section 10-261.01 of the Prince George's County Code be and the same is hereby repealed and reenacted with the following amendments:

Sec. 10-261.01. [Capturing Housing Opportunities in Communities Everywhere

("CHOICE")] Special [Revenue] Purpose Development Fund.

(a) There is hereby established and created a fund to be known as the ["Capturing Housing Opportunities in Communities Everywhere ("CHOICE")] Special [Revenue] Purpose Development Fund." It shall be operated in accordance with the provisions of this Section and Section 10-248.05 of the Code.

(b) The purpose of this Fund shall be to finance costs associated with programs to [provide and encourage affordable housing in the County] improve the quality of the County's communities. Uses of the fund may include, but not be limited to, grants and loans to private, non-profit or public entities for [acquisition financing or new construction costs; matching funds for State or Federal programs; down payment assistance for homebuyers; closing cost assistance for homebuyers; property acquisition; construction financing; interest rate buy down; comprehensive homeownership training; interim acquisition financing and assistance to nonprofit housing development corporations]commercial and residential real estate development activities and public improvements that improve the quality of the County's communities.

(c) Revenues, including, but not limited to, receipts and other revenues from the County's Moderately Priced Dwelling Unit Program, shall be paid into and appropriated from the ["CHOICE"] Special [Revenue] Purpose Development Fund, as may be provided for in the County's Approved Current Expense Budget.

(d) Monies allocated to the ["CHOICE"] Special [Revenue] Purpose Development Fund shall not be used to allay administrative expenses.

SECTION 2. BE IT FURTHER ENACTED that Sections 13-248, 13-249, 13-251, 13-252, 13-254, 13-255, and 13-257 of the Prince George's County Code be and the same are hereby repealed and reenacted with the following amendments:

SUBTITLE 13. HOUSING AND PROPERTY STANDARDS.

DIVISION 8. MODERATELY PRICED HOUSING.

Sec. 13-248. Definitions.

(a) Definitions in Subtitle 27 of this Code (the Zoning Ordinance) shall apply to this Division unless the word or phrase is defined in this Section.

(b) The following words and phrases, as used in this Division, have the following meanings:

* * * * *

(3) [**Capturing Housing Opportunities in Communities Everywhere ("CHOICE")**] **Special [Revenue] Purpose Development Fund or Fund** means the fund established in Section 10-261.01 of this Code.

* * * * *

(9) **Moderately priced dwelling unit** or **MPDU** means a dwelling unit which is constructed[, and sold [, or rented] under the requirements of this Division.

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Sec. 13-249. Establishment of Moderately Priced Dwelling Unit Program; [determination of income and] eligibility standards and regulations.

(a) There is hereby established the Moderately Priced Dwelling Unit (MPDU) Program.

(b) Standards of eligibility for the Moderately Priced Dwelling Unit Program shall be established by Program Regulations adopted in accordance with Section 13-257.

Sec. 13-251. Alternative methods of compliance.

[(a) Under this Section, instead of building the required number of moderately priced dwelling units, an applicant may offer to:

(1) Convey land to the Housing Authority, suitable in size, location and physical condition for construction of moderately priced dwelling units, or for sale by the Housing Authority, the proceeds of which shall be deposited into the Capturing Housing Opportunities in Communities Everywhere ("CHOICE") Special Revenue Fund; or

(2) Contribute to the Capturing Housing Opportunities in Communities Everywhere ("CHOICE") Special Revenue Fund an amount that will produce significantly more moderately priced dwelling units; or

(3) Build or provide significantly more moderately priced dwelling units at one or more other sites in the same or an adjoining planning area; or

(4) Do any combination of these alternatives that will result in providing significantly more moderately priced dwelling units:

(b) The Director may accept the offer made by the applicant if the Director finds that;

(1) In the project or subdivision originally proposed by the applicant, an indivisible package of resident services and facilities to be provided to all households would cost the occupants of the moderately priced dwelling units so much that it is likely to make the moderately priced dwelling units effectively unaffordable by eligible households;

(2) An offer made by an applicant under this Section will achieve significantly more moderately priced dwelling units;

(3) The public benefits outweigh the benefit of constructing moderately priced dwelling units in each subdivision throughout the County, and acceptance of the applicant's offer will achieve the objective of providing a broad range of housing opportunities throughout the County;

(4) MPDUs cannot be built in a manner compatible with other developed dwellings; or

(5) The number of MPDUs to be created is not economically feasible.

(c) The procedures for considering and implementing alternative offers shall be established by Program Regulations adopted pursuant to Section 13- 257.

(d) Notwithstanding any other provisions of this Section, the Director may reject a proposal by an applicant to utilize alternative methods of compliance, in whole or in part, whenever the public interest would best be served thereby.]

(a) In lieu of building Moderately Priced Dwelling Units applicants may apply for alternative method of compliance. In order to qualify for alternative method of compliance, the applicant must agree to make a payment to the Special Purpose Development Fund as determined by the Director.

(b) If an applicant agrees to provide special services, facilities, amenities and/or design features which significantly further the goal of improving the quality of the housing in the County, the contribution to the Special Purpose Development Fund may be reduced by as much as 50 percent. The amount of reduction shall depend upon the level, degree and quality of the special services, facilities, amenities and/or design features as determined by the Director.

(c) Applications for alternative method of compliance shall be filed with the Department on a form provided by the Department at any time prior to the execution of an MPDU agreement for the project.

(d) Requests for alternative method of compliance shall be reviewed by the Director. The approval of an alternative method of compliance request shall be made by the Chief Administrative Officer. The Planning Director of the Prince George's County Planning Board shall make comments and recommendations to the Chief Administrative Officer on requests pursuant to (b), above.

(e) The number of units in the project for purposes of computing the contribution shall be the number of units in the approved subdivision plan for the project.

(f) Alternative method of compliance payments must be paid in full prior to the issuance of building permits.

Sec. 13-252. [Capturing Housing Opportunities in Communities Everywhere

("CHOICE")] Special [Revenue] Purpose Development Fund [Advisory Board created; membership; terms].

[(a) There is hereby created the Capturing Housing Opportunities in Communities Everywhere ("CHOICE") Revenue Advisory Board.

(b) The Board shall consist of seven (7) County residents who shall be appointed by the County Executive and confirmed by the County Council.

(c) The Board shall be chaired by the Director. The remaining members shall consist of one (1) representative of each of the following: development community; financial community; a religious and a nonprofit organization concerned with the need for affordable housing; the Prince George's County Municipal Association; and a member from the community at large.

(d) Except for the Chairman, the terms of the members shall be for three (3) years. Terms of the members shall be staggered. Members shall continue to serve until their successors are appointed and qualified.

(e) The Board shall review and make recommendation to the County Executive and County Council concerning the purposes for which the revenues in the Capturing Housing

Opportunities in Communities ("CHOICE") Special Revenue Fund may be used.]

(a) Payments made pursuant to Section 13-251 shall be paid into the Special Purpose Development Fund.

(b) The County Executive shall be responsible for the development and administration of programs for the use of the Special Purpose Development Fund.

Sec. 13-254. [Sale of moderately priced dwelling units.] Sale of MPDUs to the General Public.

[(a) The Housing Authority shall have the right of first refusal to buy for its own program, or programs administered by it, thirty percent (30%) of all moderately priced dwelling units produced in a development under this Division. Any remaining units, up to thirty percent (30%) of the total, shall be made available to any nonprofit corporation designated in accordance with the Program Regulations adopted in Section 13-257, prior to public offering.]

(a) If an applicant is unable to obtain a contract purchaser for a MPDU within 120 days of formally starting to market the unit, the applicant may submit a written request to the Director for authorization to sell the unit to members of the general public at the sales price in the approved MPDU agreement for the project.

(b) The applicant's request must document good faith efforts to sell the unit to eligible MPDU purchasers.

(c) If the Director determines that there was a good faith effort to market the unit to eligible MPDU purchasers, the applicant may sell the unit to members of the general public at the sales price in the approved MPDU agreement.

(d) The provisions of Section 13-255 shall be applicable to the sale of MPDUs to members of the general public.

Sec. 13-255. Control of rents and subsequent sale prices[; foreclosures].

[(a) Except for foreclosure proceedings, moderately priced dwelling units constructed or offered for sale under this Division shall not be resold during the first ten (10) years after the date of original sale other than as provided by the Program Regulations. Date of original sale means the date of settlement for purchase of a moderately priced dwelling unit.

(b) If a moderately priced dwelling unit is sold or resold more than ten (10) years after its date of original sale, the restrictions on resale in Subsection (a) hereof shall no longer apply, provided that, for the first sale of a moderately priced dwelling unit more than ten (10) years after the original sale, the seller shall pay to the Prince George's County Capturing Housing Opportunities in Communities Everywhere ("CHOICE") Special Revenue Fund a sum established by Program Regulations.]

(a) There are no limitations on the price at which MPDU owners may resell their units.

(b) MPDU owners who sell or transfer their units ten (10) years or less after settlement on the purchase of their MPDU unit shall pay an amount equal to the following to the Special Purpose Development Fund.

(1) The difference between the MPDU's appraised value at the time of settlement on their purchase of the unit and the sales price paid by the MPDU owner at the time of settlement on their purchase of the unit.

(2) If the net proceeds from the sale of the MPDU are less than the amount in (b) (1), above, the amount paid to the Special Purpose Development Fund shall be the net sales proceeds.

(3) The term net proceeds shall mean the difference between the resale price and the sum of the costs of settlement, related fees, realtor commissions and the pay off amount of debts secured by the property that are superior in the chain of title to these MPDU equity recapture provisions.

(c) These equity recapture provisions shall be enforced by covenants that run with the land or by requiring MPDU purchasers to convey a promissory note and deed of trust to the County at the time of settlement on the purchase of the MPDU.

(d) The entire amount required to be paid to the Special Purpose Development Fund in (b), above, shall be forgiven ten (10) years after settlement on the purchase of the MPDU.

[(c)] (e) Moderately priced dwelling units built or offered for rent under this Division shall not be rented for ten (10) years after the date of original rental at a rent greater than that established by the Program Regulations. Date of original rental means the date the first lease agreement for a moderately priced dwelling unit takes effect.

[(d)] (f) This Section does not prohibit the bulk transfer or sale of all or some of the rental moderately priced dwelling units in a development within ten (10) years after the original rental if the buyer is bound by all covenants and controls on the moderately priced dwelling units.

[(e)] (g) Program Regulations shall provide restrictions which provide compliance with this Section and prevent practices that evade the resale and rent restrictions [controls] on [rents and sales of] moderately priced dwelling units.

Sec. 13-257. Program Regulations.

(a) Program Regulations shall be proposed by the County Executive and adopted by the County Council by Resolution. Amendments to the Program Regulations shall be proposed by [January 1 of 1992 and each year thereafter for consideration by the County Council. Program Regulations shall also be revised] the County Executive and adopted by the County Council by resolution when changes in economic conditions affect the ability of eligible persons to buy or rent housing or to improve the effective administration of the Program.

SECTION 2. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45) calendar days after it becomes law.

Adopted this _____ day of _____, 1995.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY:
Anne T. MacKinnon
Chairwoman

ATTEST:

Joyce T. Sweeney
Clerk of the Council

APPROVED:

DATE: _____

BY:

Wayne K. Curry
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks *** indicate intervening existing Code provisions that remain unchanged.