

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2013 Legislative Session

Bill No. CB-27-2013
 Chapter No. 34
 Proposed and Presented by Council Member Lehman
 Introduced by Council Members Lehman and Harrison
 Co-Sponsors _____
 Date of Introduction July 2, 2013

BILL

1 AN ACT concerning

2 Conversion of Rental Housing

3 For the purpose of regulating the conversion of rental housing, establishing procedures and
 4 regulations and generally relating to rental property conversion in Prince George's County.

5 BY adding:

6 SUBTITLE 13. HOUSING AND PROPERTY STANDARDS.

7 Sections 13-1110 – 13-1120,

8 The Prince George's County Code

9 (2007 Edition, 2011 Supplement).

10 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
 11 Maryland, that Sections 13-1110 – 13-1120 of the Prince George's County Code be and the same
 12 are hereby added:

13 **SUBTITLE 13. HOUSING AND PROPERTY STANDARDS.**

14 **DIVISION 14. CONVERSION OF RENTAL HOUSING.**

15 **Sec. 13-1110. Authority and purpose.**

16 The purpose of this division is to protect the tenancies of certain households in rental
 17 housing conversions and to allow the County the ability to purchase and rehabilitate rental
 18 housing in areas of the County as a means of revitalization. The County Council finds that there
 19 is a continuing shortage of quality low and moderate-income affordable rental housing in the
 20 County, that the County also finds that it seeks to stabilize and preserve housing opportunities for
 21 low and moderate-income households, that tenants can experience hardships when they are

1 displaced by conversion of rental housing and that it is in the best interests of public health,
 2 safety and welfare to regulate the conversion of rental housing in the County.

3 **Sec. 13-1111. Definitions.**

4 (a) For the purposes of this section, the following terms have the meanings:

5 (1) **Convert and conversion** means:

6 (A) subjecting of property to a condominium regime by recording in the County
 7 land records that comply with the requirements in Title 11 of the Real Property Article of the
 8 Annotated Code of Maryland;

9 (B) changing the use of multifamily rental facility to a nonresidential use;

10 (C) demolishing at least one-third of occupied units in a twelve (12) month
 11 period;

12 (D) displacing tenants from at least one-third of occupied units in a twelve (12)
 13 month period by raising rents or preparing to rehabilitate the multifamily rental facility; or

14 (E) any other act that ends the use of the property as a multifamily rental facility.

15 (2) **Department** means the Department of Housing and Community Development.

16 (3) **Director** means the Director of the Department of Housing and Community
 17 Development or their designee.

18 (4) **Dwelling Unit** shall mean one (1) or more rooms arranged for the use of one (1)
 19 or more individuals living together as a single housekeeping unit, within a rental facility.

20 (5) **Owner** means a person holding title to rental housing.

21 (6) **Multifamily rental facility** mean any building, structure, or combination of
 22 related buildings, structures, and appurtenances, operated as a single entity, housing cooperative
 23 ("COOP"), or a condominium, in which the landlord provides for a consideration twenty (20) or
 24 more rental dwelling units; but shall not be construed to mean any transient facilities such as
 25 boarding houses, tourist homes, inns, motels, hotels, school dormitories, hospitals or medical
 26 facilities, any other facilities operated for religious or eleemosynary purposes, continuing care
 27 facilities regulated by the State pursuant to Article 70B of the Maryland Annotated Code, and
 28 projects authorized under 10 U.S.C. 2828, which allows the U.S. Government to lease housing
 29 facilities at or near a military installation for assignment, without rental charge, as family
 30 housing for members of the Armed Forces.

31 (7) **Sale, sell, or selling** means:

(A) transfer of title to rental housing;

(B) transfer in a 12-month period of a majority interest in owner; or

(C) lease of rental housing for more than 7 years.

(8) **Tenant** means any person having a leasehold right to occupy a dwelling unit in a rental facility.

(9) **Title** means a legal or equitable ownership interest in rental housing; or a legal, equitable, or beneficial interest in a partnership, limited liability company, limited partnership, corporation, trust or other person who is not an individual, that has a legal or equitable ownership interest in rental housing.

Sec. 13-1112. Notice of sale.

(a) A notice is required as follows:

(1) Within five (5) days after an owner enters into a bona fide contract of sale to sell rental housing, the owner must provide written notice of the sale:

(A) to each tenant in the multifamily rental facility by hand or by certified mail, return receipt requested;

(B) posted in the public areas of the multifamily rental facility; and

(C) to the Director of the Department by certified mail, return receipt requested.

Sec. 13-1113. County right of first refusal.

(a) An owner shall offer the Department the right to buy multifamily rental facility before selling the rental housing to another party, except as provided under this section.

(b) An offer required by subsection (a) above must:

(1) be in writing;

(2) be sent by certified mail, return receipt requested, within five (5) business days after the execution of a bona fide contract of sale, to the Department;

(3) include substantially the same terms and conditions as a pending bona fide contract of sale from a third party to buy the multifamily rental facility; and

(4) within seven (7) business days of receipt of the offer, the Department shall make an initial evaluation whether it will exercise its right of first refusal or waiver pursuant to this section and shall notify the owner in writing;

1 (5) if the Department determines that it will exercise its right of first refusal the
 2 offer shall remain open for sixty (60) days for a multifamily rental facility after it is received for
 3 the Department pursuant to this section.

4 (c) The owner must give the Department:

5 (1) any information about the multifamily rental facility relevant to exercising the
 6 right of first refusal, such as architectural and engineering plans and specifications, and operating
 7 data; and

8 (2) access to the multifamily rental facility to inspect the property and conduct
 9 reasonable tests at reasonable times after reasonable notice within forty-five (45) days of the
 10 notice of sale under Section 13-1112 of this division.

11 (d) The Department may exercise the right of first refusal by accepting the offer within the
 12 applicable period under subsection (b)(4) above.

13 (e) The owner must sell the multifamily rental facility under the right of first refusal if the
 14 acceptance includes substantially the same terms and conditions contained in the owner's bona
 15 fide contract of sale with the third party, including any contract term that provides for a bona fide
 16 real estate commission payable to an independent broker. Notwithstanding this general
 17 requirement or any term of the contract, the Department may condition its acceptance on
 18 obtaining financing within one hundred eighty (180) days from the date of the offer.

19 (f) The owner and the Department must complete a sale under this subsection within one
 20 hundred eighty (180) days after the Department receives the owner's offer unless the owner
 21 agrees to extend the 180-day period.

22 (g) If the Department does not exercise its rights of first refusal within the applicable
 23 period under subsection (b)(4) above, the owner may sell the multifamily rental facility to the
 24 third party buyer under substantially the same terms and conditions offered to the Department.

25 (h) The Department may waive its right to purchase a particular multifamily rental facility
 26 or unit, by execution and delivery of an appropriate waiver.

27 (i) The Department may accept an offer to buy rental housing in a municipality only if
 28 the municipality approves in writing within one hundred eighty (180) days from the date of the
 29 offer. The failure of a municipality to provide written approval to the Department within the
 30 timeframe above shall be deemed an approval.

(j) The Department or any entity the County assigned the right of first refusal under Section 13-1119 is not liable for any damages incurred by the owner, a third-party buyer, a tenant, or any other person in connection with a decision to exercise or not exercise a right of first refusal under this division.

Sec. 13-1114. Exceptions to county right of first refusal

(a) An owner may sell multifamily rental facility without providing any right of first refusal under Section 13-1113 if the Department approves a written agreement that:

(1) prohibits the buyer from converting the multifamily rental facility for at least three (3) years after the sale; or

(2) at least twenty (20) percent of the units in the multifamily rental facility as rental units for fifteen (15) years from the date of acquisition for households do not exceed the applicable income eligibility figures established under Section 11-138 (b)(4)(ii) of the Real Property Article of the Annotated Code of Maryland; and

(3) the Department received the written agreement from the prospective buyer at least thirty (30) days before the sale.

(b) The Department may approve or reject an agreement with the buyer under this subsection only after considering the:

(1) physical condition of the multifamily rental facility, including any rehabilitation necessary to correct dangerous defects;

(2) tenants' ability to afford rent increases; and

(3) the need to preserve quality low- and moderate-income rental housing in the County;

(c) An owner does not have to provide a right of first refusal for a sale or transfer:

(1) in a multifamily rental facility with less than twenty (20) rental dwelling units;

(2) under the terms of a bona fide mortgage or deed of trust;

(3) to a mortgagee in lieu of foreclosure or any other proceedings, arrangement or deed in lieu of foreclosure;

(4) under a court order or judicial sale;

(5) from one co-tenant to another co-tenant by operation of law;

(6) under a will or descent or intestate distribution;

(7) to the State or a local government;

(8) to a spouse, son or daughter;

(9) made pursuant to the liquidation of a partnership, limited liability company, or corporation; or

(10) into a partnership, limited liability company, or corporation wholly owned by the person(s) so contributing.

Sec. 13-1115. Certificate of compliance.

(a) The Department must issue a certificate of compliance for multifamily rental facility to the owner, the buyer, or any other interested party, in a form appropriate for recordation in the land records, when the Department determines that the requirements of this division have been satisfied.

(b) The certificate is conclusive evidence of compliance with this division.

Sec. 13-1116. Complaints, enforcement.

(a) Any person harmed by an owner, buyer, or any other person who violates this division may file a written complaint with the Department.

(b) The Department may enforce this division by:

(1) investigating any alleged violation;

(2) issuing a summons or subpoena to compel the attendance of a person or the production of documents or other evidence;

(3) enjoining a violation;

(4) revoking a rental license issued under this Subtitle;

(5) reporting a violation to any other appropriate government agency;

(6) informal conciliation between a complainant and an alleged violator;

(7) dismissing a complaint when the Director of the Department determines that there is insufficient evidence of a violation;

(8) obtaining injunctive or other appropriate judicial relief, such as an order to:

(A) require compliance with a summons or a subpoena;

(B) require an alleged violator or witness to attend a Department meeting or other proceeding concerning the alleged violation;

(C) require production of documents or other evidence;

(D) require transfer of documents or other evidence to the Court; or

(E) prohibit the destruction of documents or other evidence;

(9) recovering costs and fees of an investigation or a lawsuit if the Department finds a violation occurred, and prevails in any appeal;

(10) ordering any appropriate financial, legal, or equitable relief to a tenant injured by a violation of this subdivision;

(11) any other applicable enforcement action that the Department could take to enforce a violation of this Subtitle;

(12) developing, conducting, or assisting in educational and information programs concerning the requirements of this subdivision; and

(13) adopting regulations to implement this subdivision.

(c) Any sale of a multifamily rental facility in violation of this subdivision is void.

(d) This division does not limit any other legal right or remedy otherwise available to a person.

Sec. 13-1117. Penalties.

A violation of this division or a regulation adopted under this division is a violation under Section 28-221 of the County Code. A violation may be punished as a separate violation for each unit in the multifamily rental facility affected by the violation for each day the violation exists.

Sec. 13-1118. Annual Report to the Council.

(a) By December 31 of each year, the County Executive or Department shall report to the County Council on activities under this division for the prior fiscal year, including:

(1) any offer of a right of first refusal received by the County;

(2) any agreement not to convert that the Department approved; and

(3) any conversion of rental housing in the County.

Sec. 13-1119. Department regulations; partnership.

(a) The Department shall promulgate such regulations necessary to implement the requirements of the division by January 1, 2014 and may amend them as needed pursuant to the County Code.

(b) The Department may partner with or assign its right of first refusal by written agreement to a non-profit, governmental agency, tenant organization, or other third-party entity, to acquire or finance the purchase of rental housing under this division.

Sec. 13-1120. Designation.

1 Sec. 13-1113 and Sec. 13-1114 shall only apply to properties located entirely within an
2 area specifically designated by resolution of the County Council with concurrence of the County
3 Executive.

4 SECTION 3. BE IT FURTHER ENACTED that no later than July 1, 2014, the Director of
5 Housing and Community Development shall offer proposed designated areas where Sec. 13-
6 1113 and Sec. 13-1114 shall apply for consideration by the County Council.

7 SECTION 4. BE IT FURTHER ENACTED that the provisions of this Act are hereby
8 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
9 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
10 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
11 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
12 Act, since the same would have been enacted without the incorporation in this Act of any such
13 invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

14 SECTION 5. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
15 calendar days after it becomes law.

Adopted this 24th day of July, 2013.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Andrea C. Harrison
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Rushern L. Baker, III
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.