

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 1195 (Delegate M. Washington)
Economic Matters and Environmental
Matters

Condominiums - Individual Exceptions to Limitations on Rentals

This bill requires a governing body of a condominium to grant a unit owner that meets specified requirements, upon written request of the unit owner, an exception to any provision in the condominium's governing document that limits the number or percent of units that may be rented. The term of any such exception is three years.

The bill also requires a consumer loan lender, a secondary mortgage loan lender, or a credit grantor of revolving credit or closed-end credit to consider a condominium, that is rented under an exception required to be granted under the bill, to be owner-occupied for purposes of the loan or extension of credit.

The bill applies prospectively and does not apply to any loan or interest rate determination made before the bill's October 1, 2013 effective date.

Fiscal Summary

State Effect: The bill does not directly affect State governmental operations or finances.

Local Effect: The bill does not directly affect local governmental operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill defines a "financial event" as (1) a reduction in household income that exceeds 50%; (2) an increase in household expenses that is 33% or greater;

(3) the death of the unit owner or the unit owner's spouse; (4) a change in the location of the unit owner's permanent employment or the spouse's permanent employment that is 50 miles or farther from the unit; (5) military deployment of the unit owner or the unit owner's spouse of 12 months or more; or (6) divorce of the unit owner from another person.

To be granted the aforementioned exception, a unit owner must submit evidence that (1) the unit owner has had a financial event; (2) the unit is the unit owner's primary residence; (3) the unit owner was a resident of the State at the time of the financial event; and (4) the appraised value of the unit is less than 90% of the amount that is owed on the condominium.

Current Law: The governance of every condominium is determined by its bylaws, which must be recorded with the declaration. If the council of unit owners is incorporated, the bylaws must be the bylaws of that corporation. The bylaws also may contain a provision regarding the management and operation of the condominium, including any restriction on or requirement respecting the use and maintenance of the units and the common elements. Unless a higher percentage is required in the bylaws, the bylaws of a condominium may be amended by the affirmative vote of unit owners having at least two-thirds of the votes in the council of unit owners.

In contrast, the declaration of a condominium may be amended in specified circumstances only with the written consent of 80% of the unit owners listed on the current roster.

The governing body of a condominium may also adopt rules for the condominium if each unit owner is mailed or delivered a copy of the proposed rule, notice that unit owners are permitted to submit written comments about the proposed rule, and notice of the proposed effective date. Before any vote on the rule is taken, an open meeting must be held to allow each unit owner or tenant to comment on the proposed rule. In order for this meeting to be held, each unit owner must receive written notice of the meeting at least 15 days before the meeting, and a quorum of the condominium's governing body must be present. If these requirements are met, the condominium may pass the proposed rule at a regular or special meeting by a majority vote of the present and voting members of the condominium's governing body. Each rule adopted under the Maryland Condominium Act (MCA) must state that the rule was adopted under MCA's provisions relating to the adoption of a rule.

Background: Often, a homeowner will be able to secure a lower interest rate for an owner-occupied mortgage compared with a nonowner-occupied mortgage. Lenders view nonowner-occupied mortgages as more likely to default.

According to *The Wall Street Journal*, the depressed housing market has increased the interest of homeowners and condominium unit owners in renting their properties to generate some financial income, rather than applying for a “cash-out” refinancing and being rejected or putting their properties up for sale and risking a large financial loss. Conflicting with this trend is the long-standing tendency of mortgage underwriters, such as the Federal Housing Administration, to limit the availability of mortgage loans for refinancing or to prospective buyers if a condominium or homeowner’s development has what is viewed as unfavorable “renter-to-owner” ratio. For example, the Federal Housing Administration requires that a condominium be at least 50% owner-occupied before it will underwrite a mortgage loan to a prospective buyer.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division), Secretary of State, www.investopedia.com, *The Wall Street Journal*, Department of Legislative Services

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