

Article - Corporations and Associations

§5-6B-07.

(a) (1) In this section the following words have the meanings indicated.

(2) “Annual income” means the total income, from all sources, of a designated household, for the income tax year immediately preceding the year in which the notice is given under § 5-6B-05 of this subtitle, whether or not included in the definition of gross income for federal or State tax purposes. For purposes of this section, the inclusions and exclusions from annual income are the same as those listed in § 9-104(a)(8) of the Tax - Property Article for “gross income” as that term is defined for the property tax credits for homeowners by reason of income and age, reduced by unreimbursed medical expenses if the tenant provides reasonable evidence of the unreimbursed medical expenses or consents in writing to authorize disclosure of relevant information regarding medical expense reimbursement at the time of applying for an extended lease.

(3) “Designated household” means a household which includes a senior citizen or a handicapped citizen, provided that the senior citizen or the handicapped citizen has been a member of the household for a period of at least 12 months immediately preceding the giving of the notice required by § 5-6B-05 of this subtitle.

(4) “Handicapped citizen” means a person with a measurable limitation of mobility due to congenital defect, disease, or trauma.

(5) “Household” means only those persons domiciled in the unit at the time the notice required by § 5-6B-05 of this subtitle is given.

(6) “Senior citizen” means a person who is at least 62 years old on the date that the notice required by § 5-6B-05 of this subtitle is given.

(b) A developer may not sell a cooperative interest with respect to a unit in a residential rental facility occupied by a member of a designated household entitled to receive the notice required by § 5-6B-05 of this subtitle without offering to the tenant of the unit a lease extension for a period of at least 3 years from the giving of the notice required by § 5-6B-05 of this subtitle, if the household meets the following criteria:

(1) Had an annual income which did not exceed the income eligibility figure applicable for the county or standard metropolitan statistical area in which the residential rental facility is located, as provided under subsection (n) of this section;

(2) Is current in its rent payment and has not violated any other material terms of the lease;

(3) Has provided the developer within 60 days after the giving of the notice required by § 5-6B-05 of this subtitle with an affidavit under penalty of perjury, with a statement:

(i) Asserting that the household is applying for an extended lease under this section;

(ii) Setting forth the household's annual income for the calendar year preceding the giving of the notice required by § 5-6B-05 of this subtitle, together with reasonable supporting documentation of the household income and, where applicable, of unreimbursed medical expenses or a written authorization for disclosure of relevant information regarding medical expense reimbursement by doctors, hospitals, clinics, insurance companies, or similar persons, entities, or organizations that provide medical treatment coverage to the household; and

(iii) Setting forth facts showing that a member of the household is either a handicapped citizen or a senior citizen who, in either event, has been a member of the household for at least the 12 months immediately preceding the giving of the notice required by § 5-6B-05 of this subtitle; and

(4) Has executed an extended lease and returned it to the developer within 60 days after the giving of the notice required by § 5-6B-05 of this subtitle.

(c) The developer shall deliver to each tenant entitled to receive the notice required by § 5-6B-05 of this subtitle, simultaneously with the notice:

(1) An application on which may be included all of the information required by paragraph (3) of subsection (b) of this section;

(2) A lease containing the terms required by this section and clearly indicating that the lease will be effective, but only if:

(i) The tenant executes and returns the lease not later than 60 days after the giving of the notice required by § 5-6B-05 of this subtitle; and

(ii) The household is allocated one of the units required to be made available to qualified households based on its ranking under subsection (k) of this section and the number of tenants executing and returning leases;

(3) A copy of the public offering statement; and

(4) A notice setting forth the rights and obligations of the tenant under this section. Delivery of a notice in the form specified in § 5-6B-05(f) of this subtitle meets the requirements of this subsection.

(d) Within 75 days after giving the notice required by § 5-6B-05 of this subtitle, the developer shall notify each household which submits to the developer the documentation required by subsection (b)(3) of this section:

(1) Whether the household meets the criteria of subsection (b) of this section, and, if not, an explanation of which criteria have not been met; and

(2) Whether the extended lease has become effective.

(e) Within 75 days after the giving of the notice required by § 5-6B-05 of this subtitle, the developer shall provide to any county, incorporated municipality, or housing agency that has a right to purchase units in the residential rental facility under § 5-6B-09 of this subtitle:

(1) A notice indicating the number of units in the cooperative housing corporation being made available to qualified households under subsection (k)(1) of this section;

(2) A list of all households meeting the criteria of subsection (b) of this section, indicating the ranking of each in relation to that number;

(3) A list of all households returning the affidavit required by subsection (b) of this section that do not meet all the criteria of subsection (b) of this section and copies of the notifications sent to these households under subsection (d) of this section; and

(4) A list of all households as to whom a lease has become effective.

(f) (1) The extended lease shall provide for a term commencing on acceptance and terminating not less than 3 years from the giving of the notice required by § 5-6B-05 of this subtitle.

(2) Annually, on the commencement date of the extended lease, the rental fee for the unit may be increased. The increase shall not exceed an amount determined by multiplying the annual rent for the preceding year by the percentage increase for the rent component of the U.S. Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI - W) (1967 = 100), as published by the U.S. Department of Labor, for the most recent 12-month period.

(3) Except as this section otherwise permits or requires, the extended lease shall contain the same terms and conditions as the lease in effect on the day preceding the giving of the notice required by § 5-6B-05 of this subtitle.

(g) A designated household which exercises its rights under this section may not be denied an opportunity to purchase a cooperative interest at a later date, if one is available.

(h) (1) Except as provided in paragraph (2) of this subsection, a designated household which executes an extended lease under this section which is later accepted may not terminate its extended lease under § 5-6B-05 of this subtitle.

(2) A designated household may terminate its extended lease at any time, with notice to the developer or any subsequent titleholder as follows:

(i) At least a 1-month prior notice in writing shall be given when less

than 12 months remain on the lease; and

(ii) At least a 3-months' prior notice in writing shall be given when 12 months or more remain on the lease.

(3) A lease executed under this section shall set forth the provisions for terminating contained in this subsection.

(i) (1) The cooperative interests with respect to units subject to the provisions of this section may be transferred to a person who is not a member of the designated household, provided that:

(i) The provisions of this section continue to apply despite any transfer of a cooperative interest with respect to a unit occupied by a designated household as provided in this section;

(ii) The designated household is provided written notice of the change of ownership of the cooperative interest by the new owner of such interest; and

(iii) The seller of the cooperative interest provides the purchaser written disclosure that the unit is occupied by a designated household subject to the provisions of this section at the time of or prior to the execution of a contract.

(2) Notwithstanding any provisions in the articles of incorporation, bylaws, or proprietary lease that limit, prohibit, or restrict occupancy by persons other than the owner of the cooperative interest with respect to the unit, the designated household may occupy the unit under the extended lease provided for in this section.

(j) The extended tenancy provided for in this section shall cease upon the occurrence of one of the following:

(1) 90 days after the death of the last surviving senior citizen or handicapped citizen residing in the unit or 90 days after the last senior citizen or handicapped citizen has moved from the unit;

(2) Eviction for failure to pay rent due in a timely fashion or violation of any other material term of the lease; or

(3) Voluntary termination of the lease by the designated household under subsection (h) of this section.

(k) (1) A developer shall set aside a percentage of the total number of units within a cooperative project for designated households. A developer is not required to grant extended leases covering more than 20 percent of the units within a cooperative project to designated households.

(2) If the number of units occupied by designated households that meet the criteria of subsection (b) of this section exceeds 20 percent of the total number of units,

then the number of available units for tenancy under the provisions of this section shall be allocated as determined by the local governing body. If the local governing body fails to provide for allocation, units shall be allocated by the developer based on seniority by continuous length of residence.

(1) (1) If a conversion involves substantial rehabilitation or reconstruction of such a nature that the work involved does not permit the continued occupancy of a unit because of danger to the health and safety of the tenants, any designated household executing an extended lease under the provisions of this section shall be required to vacate the unit not earlier than the expiration of the 180-day period and to relocate at the expense of the developer in a comparable unit in the residential rental facility to permit the work to be performed.

(2) If there is no comparable unit available, then the designated household shall be required to vacate the residential rental facility. When the work is completed, the developer shall notify the household of its completion. The household shall have 30 days after the date of that notice to return to the original or a comparable rental unit. The term of the extended lease of that household shall begin upon the return to the rental unit.

(3) The developer shall give 180 days' notice prior to the date that units must be vacated. The notice shall explain the household's rights under this subsection and subsection (m) of this section.

(m) (1) The developer shall pay households that qualify as to income under subsection (b)(1) of this section \$375 when the household vacates the unit and for moving expenses in excess of \$375 up to \$750 which are actually and reasonably incurred. The household shall make a written request for reimbursement accompanied by reasonable evidence of the costs incurred within 30 days after moving. The developer shall reimburse the household within 30 days following receipt of the request.

(2) If a household does not qualify as to income under subsection (b)(1) of this section, the developer shall reimburse moving expenses, up to \$750, actually and reasonably incurred to the designated households eligible under this subsection. The designated household shall make a written request for reimbursement accompanied by reasonable evidence of the costs incurred within 30 days after moving. The developer shall reimburse the designated household within 30 days following receipt of the request.

(3) The developer shall also pay compensation equivalent to 3 months rent within 15 days of moving to the designated household eligible under this subsection.

(4) The following designated households which meet the applicable criteria of subsection (b) of this section are eligible under this subsection:

(i) A designated household which does not execute an extended lease;

(ii) A designated household which is precluded from having an extended tenancy by the limitations of subsection (k) of this section; or

(iii) A designated household which is required to vacate the rental unit under subsection (l)(2) of this section.

(5) A developer shall also reimburse moving expenses, up to \$750, actually and reasonably incurred, to a designated household that returns to the rental unit under subsection (l)(2) of this section. The designated household shall make a written request for reimbursement accompanied by reasonable evidence of the costs incurred within 30 days following the designated household's return. The developer shall reimburse the designated household within 30 days following receipt of the request.

(n) (1) The Secretary of State shall prepare an income eligibility figure for each county and standard metropolitan statistical area of the State, which shall reasonably approximate 80 percent of the median income for each county and standard metropolitan statistical area.

(2) (i) A county or incorporated municipality which is in a standard metropolitan statistical area may by ordinance or resolution adopt the income eligibility figure applicable to the county or standard metropolitan statistical area.

(ii) If the county or incorporated municipality does not adopt an income eligibility figure, the county figure shall control.