

# SENATE BILL 819

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HB 952/21 – ENT

3lr2492

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By: **Senator A. Washington**

Introduced and read first time: February 6, 2023

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Sale of Apartment Facilities – Rights of Qualified Organizations**

3 FOR the purpose of prohibiting an owner of an apartment facility from taking certain  
4 actions regarding the sale of the apartment facility unless the owner complies with  
5 the requirements of this Act; providing that certain provisions of this Act may not be  
6 construed to establish the Department of Housing and Community Development as  
7 party or agent to the sale of an apartment facility; establishing procedures by which  
8 qualified organizations may be given a right of first refusal in certain sales of  
9 apartment facilities; establishing the Right of First Refusal Fund; and generally  
10 relating to the sale of apartment facilities.

11 BY renumbering

12 Article – Real Property

13 Section 10–801 and 10–802 and the subtitle “Subtitle 8. Miscellaneous Provisions”  
14 to be Section 10–901 and 10–902, respectively, and the subtitle “Subtitle 9.  
15 Miscellaneous Provisions”

16 Annotated Code of Maryland

17 (2015 Replacement Volume and 2022 Supplement)

18 BY adding to

19 Article – Real Property

20 Section 10–801 through 10–807 to be under the new subtitle “Subtitle 8. Sale of  
21 Apartment Facilities – Rights of Qualified Organizations”

22 Annotated Code of Maryland

23 (2015 Replacement Volume and 2022 Supplement)

24 BY repealing and reenacting, without amendments,

25 Article – State Finance and Procurement

26 Section 6–226(a)(2)(i)

27 Annotated Code of Maryland

28 (2021 Replacement Volume and 2022 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,  
2 Article – State Finance and Procurement  
3 Section 6–226(a)(2)(ii)170. and 171.  
4 Annotated Code of Maryland  
5 (2021 Replacement Volume and 2022 Supplement)

6 BY adding to  
7 Article – State Finance and Procurement  
8 Section 6–226(a)(2)(ii)172.  
9 Annotated Code of Maryland  
10 (2021 Replacement Volume and 2022 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
12 That Section(s) 10–801 and 10–802 and the subtitle “Subtitle 8. Miscellaneous Provisions”  
13 of Article – Real Property of the Annotated Code of Maryland be renumbered to be  
14 Section(s) 10–901 and 10–902, respectively, and the subtitle “Subtitle 9. Miscellaneous  
15 Provisions”.

16 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
17 as follows:

18 **Article – Real Property**

19 **SUBTITLE 8. SALE OF APARTMENT FACILITIES – RIGHTS OF QUALIFIED**  
20 **ORGANIZATIONS.**

21 **10–801.**

22 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
23 **INDICATED.**

24 **(B) “APARTMENT FACILITY” MEANS A RESIDENTIAL BUILDING OR COMPLEX**  
25 **THAT CONTAINS FIVE OR MORE INDIVIDUAL DWELLING UNITS OFFERED FOR RENT**  
26 **BY A COMMON LANDLORD.**

27 **(C) “DEPARTMENT” MEANS THE DEPARTMENT OF HOUSING AND**  
28 **COMMUNITY DEVELOPMENT.**

29 **(D) “ELIGIBLE NONPROFIT CORPORATION” MEANS A NONPROFIT**  
30 **CORPORATION OPERATING IN THE STATE ESTABLISHED FOR THE PURPOSE OF**  
31 **DEVELOPING, REHABILITATING, OR OPERATING AFFORDABLE RENTAL HOUSING.**

32 **(E) “QUALIFIED ORGANIZATION” MEANS:**

1           (1) A HOUSING AUTHORITY ESTABLISHED UNDER TITLE 12 OF THE  
2 HOUSING AND COMMUNITY DEVELOPMENT ARTICLE;

3           (2) AN ELIGIBLE NONPROFIT CORPORATION;

4           (3) A LEGAL ENTITY OF WHICH THE CONTROLLING MEMBER IS A  
5 HOUSING AUTHORITY OR AN ELIGIBLE NONPROFIT CORPORATION; OR

6           (4) A DEVELOPER OR AN OPERATOR OF A SENIOR APARTMENT  
7 FACILITY.

8           (F) (1) "SENIOR APARTMENT FACILITY" MEANS AN APARTMENT  
9 FACILITY THAT PROVIDES HOUSING FOR OLDER PERSONS AS DEFINED UNDER 42  
10 U.S.C. § 3607.

11           (2) "SENIOR APARTMENT FACILITY" DOES NOT INCLUDE A NURSING  
12 HOME OR AN ASSISTED LIVING FACILITY.

13 **10-802.**

14           (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS  
15 SUBTITLE APPLIES TO THE SALE OR TRANSFER OF AN APARTMENT FACILITY IN THE  
16 STATE.

17           (B) THIS SUBTITLE DOES NOT APPLY TO THE SALE OR TRANSFER OF AN  
18 APARTMENT FACILITY THAT IS:

19           (1) OWNED BY A UNIT OF LOCAL GOVERNMENT, THE STATE, OR THE  
20 FEDERAL GOVERNMENT;

21           (2) TRANSFERRED BY EMINENT DOMAIN;

22           (3) FUNDED, IN WHOLE OR IN PART, BY A LOAN OR GRANT PROVIDED  
23 BY A GOVERNMENT AGENCY AND SUBJECT TO CONDITIONS THAT RESTRICT  
24 OCCUPANCY OR RENTS BASED ON THE ANNUAL EARNINGS, AGE, OR PHYSICAL  
25 ABILITIES OF THE TENANT, PROVIDED THAT THE APARTMENT FACILITY IS  
26 OPERATED UNDER THE SAME CONDITIONS AFTER THE SALE OR TRANSFER;

27           (4) OWNED BY OR ASSOCIATED WITH A MEDICAL INSTITUTION OR AN  
28 EDUCATIONAL INSTITUTION;

1           **(5) AT LEAST ONE-HALF OWNED BY THE LANDLORD OF THE**  
2 **APARTMENT FACILITY IF THE LANDLORD OCCUPIES A DWELLING UNIT IN THE**  
3 **APARTMENT FACILITY AS THE LANDLORD'S PRINCIPAL RESIDENCE;**

4           **(6) SOLD OR TRANSFERRED TO THE OWNER'S:**

5                   **(I) SPOUSE;**

6                   **(II) PARENT;**

7                   **(III) CHILD;**

8                   **(IV) SIBLING;**

9                   **(V) GRANDPARENT; OR**

10                   **(VI) GRANDCHILD;**

11           **(7) TRANSFERRED BY THE OWNER INTO A TRUST FOR THE BENEFIT**  
12 **OF THE OWNER OR AN INDIVIDUAL LISTED IN ITEM (6) OF THIS SUBSECTION;**

13           **(8) TRANSFERRED BY A DECEDENT'S ESTATE TO AN INDIVIDUAL**  
14 **LISTED IN ITEM (6) OF THIS SUBSECTION OR A TRUST ESTABLISHED FOR THE**  
15 **BENEFIT OF THE INDIVIDUAL;**

16           **(9) TRANSFERRED PURSUANT TO A COURT ORDER OR A SETTLEMENT**  
17 **AGREEMENT APPROVED BY A COURT; OR**

18           **(10) LOCATED IN A COUNTY WITH A PUBLIC LOCAL LAW OR**  
19 **ORDINANCE COMPARABLE IN SUBJECT MATTER TO THIS SUBTITLE.**

20 **10-803.**

21           **UNLESS AN OWNER OF AN APARTMENT FACILITY COMPLIES WITH THE**  
22 **REQUIREMENTS OF THIS SUBTITLE, THE OWNER MAY NOT:**

23           **(1) OFFER THE APARTMENT FACILITY FOR SALE TO A PURCHASER**  
24 **OTHER THAN A QUALIFIED ORGANIZATION;**

25           **(2) SOLICIT AN OFFER TO PURCHASE THE APARTMENT FACILITY**  
26 **FROM A PURCHASER OTHER THAN A QUALIFIED ORGANIZATION; OR**

1           **(3) ACCEPT AN UNSOLICITED OFFER TO PURCHASE THE APARTMENT**  
2 **FACILITY FROM A PARTY OTHER THAN A QUALIFIED ORGANIZATION.**

3 **10-804.**

4           **(A) THE OWNER OF AN APARTMENT FACILITY THAT INTENDS TO SELL THE**  
5 **APARTMENT FACILITY SHALL SEND A NOTICE TO THE DEPARTMENT THAT**  
6 **INCLUDES:**

7           **(1) THE ADDRESS OF THE APARTMENT FACILITY;**

8           **(2) A DESCRIPTION OF THE APARTMENT FACILITY;**

9           **(3) THE ADDRESS OF THE OWNER, IF DIFFERENT FROM THE ADDRESS**  
10 **OF THE APARTMENT FACILITY;**

11           **(4) THE NAME, E-MAIL ADDRESS, AND TELEPHONE NUMBER OF THE**  
12 **OWNER;**

13           **(5) THE NAME, E-MAIL ADDRESS, AND TELEPHONE NUMBER OF THE**  
14 **SELLER'S AGENT, IF APPLICABLE; AND**

15           **(6) ANY ADDITIONAL INFORMATION REQUIRED BY THE**  
16 **DEPARTMENT.**

17           **(B) ON RECEIPT OF THE NOTICE REQUIRED UNDER SUBSECTION (A) OF THIS**  
18 **SECTION, THE DEPARTMENT SHALL:**

19           **(1) POST THE NOTICE ON THE DEPARTMENT'S WEBSITE FOR 10**  
20 **BUSINESS DAYS; AND**

21           **(2) PROVIDE THE OWNER OF THE APARTMENT FACILITY WITH A**  
22 **RECEIPT THAT INDICATES THE DATE AND TIME THE NOTICE WAS POSTED TO THE**  
23 **DEPARTMENT'S WEBSITE.**

24           **(C) THE DEPARTMENT SHALL OPERATE AN ELECTRONIC SYSTEM TO:**

25           **(1) RECEIVE NOTICES REQUIRED UNDER SUBSECTION (A) OF THIS**  
26 **SECTION;**

27           **(2) CERTIFY AND REGISTER QUALIFIED ORGANIZATIONS;**

1           **(3) ALLOW A USER TO VERIFY THE CERTIFICATION AND**  
2 **REGISTRATION OF A QUALIFIED ORGANIZATION; AND**

3           **(4) NOTIFY QUALIFIED ORGANIZATIONS REGISTERED WITH THE**  
4 **DEPARTMENT OF NEW NOTICES POSTED TO THE DEPARTMENT'S WEBSITE.**

5           **(D) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS**  
6 **SECTION.**

7           **(E) NOTHING IN THIS SECTION MAY BE CONSTRUED TO ESTABLISH THE**  
8 **DEPARTMENT AS A PARTY OR AN AGENT TO A PARTY TO THE SALE OF AN APARTMENT**  
9 **FACILITY.**

10 **10-805.**

11           **(A) THIS SECTION APPLIES ONLY TO A QUALIFIED ORGANIZATION THAT IS**  
12 **CERTIFIED BY AND REGISTERED WITH THE DEPARTMENT.**

13           **(B) (1) A QUALIFIED ORGANIZATION MAY, DURING THE PERIOD OF TIME**  
14 **SPECIFIED UNDER § 10-804(B)(1) OF THIS SUBTITLE, SEND WRITTEN NOTICE, BY**  
15 **CERTIFIED MAIL OR ELECTRONIC MEANS, TO THE OWNER OF OR THE SELLER'S**  
16 **AGENT FOR THE APARTMENT FACILITY EXPRESSING INTEREST IN PURCHASING THE**  
17 **APARTMENT FACILITY.**

18           **(2) IF THE OWNER OF OR THE SELLER'S AGENT FOR THE APARTMENT**  
19 **FACILITY DOES NOT RECEIVE AN EXPRESSION OF INTEREST FROM A QUALIFIED**  
20 **ORGANIZATION DURING THE PERIOD OF TIME SPECIFIED UNDER § 10-804(B)(1) OF**  
21 **THIS SUBTITLE, THE OWNER MAY PROCEED IN SELLING THE PROPERTY WITHOUT**  
22 **REGARD TO THIS SECTION.**

23           **(C) IF THE OWNER OF OR THE SELLER'S AGENT FOR THE APARTMENT**  
24 **FACILITY RECEIVES AN EXPRESSION OF INTEREST FROM A QUALIFIED**  
25 **ORGANIZATION IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION, THE**  
26 **OWNER OR THE SELLER'S AGENT SHALL PROVIDE THE QUALIFIED ORGANIZATION**  
27 **WITH A DISCLOSURE PACKAGE THAT INCLUDES, AT MINIMUM:**

28           **(1) THE REQUESTED PURCHASE PRICE OR STARTING BID IF ONE HAS**  
29 **BEEN ESTABLISHED FOR THE APARTMENT FACILITY;**

30           **(2) THE ANNUAL EXPENSES ASSOCIATED WITH OPERATING THE**  
31 **APARTMENT FACILITY, INCLUDING MANAGEMENT, INSURANCE, UTILITIES, AND**  
32 **REGULAR MAINTENANCE COSTS; AND**

1           **(3) A LIST OF KNOWN LATENT DEFECTS OF THE APARTMENT FACILITY**  
2 **AND, IF AVAILABLE, THE RESERVE STUDY FOR THE APARTMENT FACILITY.**

3           **(D) (1) (I) WITHIN 10 BUSINESS DAYS AFTER RECEIVING THE**  
4 **DISCLOSURE PACKAGE UNDER SUBSECTION (C) OF THIS SECTION, A QUALIFIED**  
5 **ORGANIZATION THAT IS INTERESTED IN SUBMITTING AN OFFER TO PURCHASE THE**  
6 **APARTMENT FACILITY SHALL CONFIRM ITS INTEREST BY SENDING WRITTEN**  
7 **NOTICE, BY CERTIFIED MAIL OR ELECTRONIC MEANS, TO THE OWNER OF OR THE**  
8 **SELLER'S AGENT FOR THE APARTMENT FACILITY.**

9           **(II) IF THE OWNER OR THE SELLER'S AGENT DOES NOT RECEIVE**  
10 **A CONFIRMATION OF INTEREST FROM THE QUALIFIED ORGANIZATION IN**  
11 **ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE OWNER MAY**  
12 **PROCEED IN SELLING THE PROPERTY WITHOUT REGARD TO THIS SECTION.**

13           **(2) (I) WITHIN 60 DAYS AFTER RECEIVING THE DISCLOSURE**  
14 **PACKAGE UNDER SUBSECTION (C) OF THIS SECTION, A QUALIFIED ORGANIZATION**  
15 **THAT HAS CONFIRMED ITS INTEREST UNDER PARAGRAPH (1)(I) OF THIS**  
16 **SUBSECTION SHALL SUBMIT A WRITTEN OFFER TO PURCHASE THE APARTMENT**  
17 **FACILITY, BY CERTIFIED MAIL OR ELECTRONIC MEANS, TO THE OWNER OF OR THE**  
18 **SELLER'S AGENT FOR THE APARTMENT FACILITY.**

19           **(II) IF THE OWNER OR SELLER'S AGENT DOES NOT RECEIVE AN**  
20 **OFFER TO PURCHASE THE APARTMENT FACILITY WITHIN 60 DAYS AFTER THE**  
21 **QUALIFIED ORGANIZATION RECEIVED THE DISCLOSURE PACKAGE IDENTIFIED IN**  
22 **SUBSECTION (C) OF THIS SECTION, THE OWNER MAY PROCEED IN SELLING THE**  
23 **PROPERTY WITHOUT REGARD TO THIS SECTION.**

24           **(E) (1) THE OWNER OF THE APARTMENT FACILITY MAY:**

25           **(I) REJECT AN OFFER SUBMITTED BY A QUALIFIED**  
26 **ORGANIZATION UNDER SUBSECTION (D) OF THIS SECTION; AND**

27           **(II) IF THE OWNER REJECTS ALL OFFERS RECEIVED UNDER**  
28 **SUBSECTION (D) OF THIS SECTION, SELL THE PROPERTY TO ANY OTHER BUYER**  
29 **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION.**

30           **(2) (I) IF THE OWNER OF THE APARTMENT FACILITY INTENDS TO**  
31 **ACCEPT AN OFFER MADE BY A PERSON OTHER THAN A QUALIFIED ORGANIZATION**  
32 **TO PURCHASE THE APARTMENT FACILITY FOR A PRICE THAT IS LESS THAN THE**  
33 **PRICE OFFERED BY A QUALIFIED ORGANIZATION UNDER SUBSECTION (D) OF THIS**  
34 **SECTION, THE OWNER SHALL:**

1                   1.    NOTIFY THE QUALIFIED ORGANIZATION BY  
2 CERTIFIED MAIL OR ELECTRONIC MEANS OF THE OFFER THE OWNER INTENDS TO  
3 ACCEPT; AND

4                   2.    PROVIDE THE QUALIFIED ORGANIZATION WITH A  
5 RIGHT OF FIRST REFUSAL TO PURCHASE THE APARTMENT FACILITY UNDER THE  
6 SAME TERMS AS THOSE PROPOSED IN THE OFFER THE OWNER INTENDS TO ACCEPT.

7                   (ii)   WITHIN 10 DAYS AFTER RECEIVING NOTICE UNDER  
8 SUBPARAGRAPH (i) OF THIS PARAGRAPH, A QUALIFIED ORGANIZATION SHALL  
9 NOTIFY THE OWNER OF OR THE SELLER'S AGENT FOR THE APARTMENT FACILITY OF  
10 THE ORGANIZATION'S INTENT TO ACCEPT OR REJECT THE TERMS BY CERTIFIED  
11 MAIL OR ELECTRONIC MEANS.

12                   (iii) 1.   IF THE OWNER OF OR THE SELLER'S AGENT FOR THE  
13 APARTMENT FACILITY DOES NOT RECEIVE AN ACCEPTANCE FROM A QUALIFIED  
14 ORGANIZATION UNDER SUBPARAGRAPH (ii) OF THIS PARAGRAPH, THE OWNER MAY  
15 ACCEPT THE OFFER FROM THE PERSON THAT IS NOT A QUALIFIED ORGANIZATION.

16                   2.    IF THE OWNER OF OR THE SELLER'S AGENT FOR THE  
17 APARTMENT FACILITY RECEIVES AN ACCEPTANCE FROM MORE THAN ONE  
18 QUALIFIED ORGANIZATION UNDER SUBPARAGRAPH (ii) OF THIS PARAGRAPH, THE  
19 OWNER SHALL SELL THE APARTMENT FACILITY TO THE QUALIFYING ORGANIZATION  
20 THAT MADE ITS ACCEPTANCE FIRST.

21                   (iv)   A QUALIFIED ORGANIZATION THAT DOES NOT RECEIVE THE  
22 NOTICE REQUIRED UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH MAY REQUEST  
23 THAT A COURT OF COMPETENT JURISDICTION ISSUE AN INJUNCTION IN ORDER TO  
24 COMPEL COMPLIANCE WITH THIS PARAGRAPH.

25   **10-806.**

26                   A QUALIFIED ORGANIZATION THAT PURCHASES AN APARTMENT FACILITY IN  
27 ACCORDANCE WITH THIS SUBTITLE:

28                   (1)   SHALL ALLOW A TENANT WHOSE TENANCY BEGAN BEFORE THE  
29 SALE OF THE APARTMENT FACILITY TO CONTINUE THE TENANCY UNTIL THE END OF  
30 THE LEASE; BUT

31                   (2)   MAY RESTRICT NEW TENANCIES CREATED AFTER THE SALE OF  
32 THE APARTMENT FACILITY AS ALLOWED OR REQUIRED BY LAW.

33   **10-807.**



1 (A) IN THIS SECTION, “FUND” MEANS THE RIGHT OF FIRST REFUSAL FUND.

2 (B) THERE IS A RIGHT OF FIRST REFUSAL FUND.

3 (C) THE PURPOSE OF THE FUND IS TO INCREASE THE AVAILABILITY OF  
4 AFFORDABLE HOUSING IN THE STATE.

5 (D) THE DEPARTMENT SHALL ADMINISTER THE FUND.

6 (E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT  
7 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

8 (2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,  
9 AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

10 (F) THE FUND CONSISTS OF:

11 (1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

12 (2) INTEREST EARNINGS; AND

13 (3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR  
14 THE BENEFIT OF THE FUND.

15 (G) (1) THE FUND MAY BE USED ONLY TO SUBSIDIZE FINANCING FOR THE  
16 ACQUISITION, REHABILITATION, AND OPERATION OF RENTAL PROPERTIES.

17 (2) FUNDING PRIORITY UNDER PARAGRAPH (1) OF THIS SUBSECTION  
18 SHALL BE GIVEN TO COUNTIES THAT HAVE A DEFICIT OF AT LEAST 10,000  
19 AFFORDABLE HOUSING UNITS.

20 (H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND  
21 IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

22 (2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO  
23 THE FUND.

24 (I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE  
25 WITH THE STATE BUDGET.

26 Article – State Finance and Procurement

1 (a) (2) (i) Notwithstanding any other provision of law, and unless  
2 inconsistent with a federal law, grant agreement, or other federal requirement or with the  
3 terms of a gift or settlement agreement, net interest on all State money allocated by the  
4 State Treasurer under this section to special funds or accounts, and otherwise entitled to  
5 receive interest earnings, as accounted for by the Comptroller, shall accrue to the General  
6 Fund of the State.

7 (ii) The provisions of subparagraph (i) of this paragraph do not apply  
8 to the following funds:

9 170. the Cannabis Public Health Fund; [and]

10 171. the Community Reinvestment and Repair Fund; AND

11 **172. THE RIGHT OF FIRST REFUSAL FUND.**

12 SECTION 3. AND BE IT FURTHER ENACTED, That, if any provision of this Act or  
13 the application thereof to any person or circumstance is held invalid for any reason in a  
14 court of competent jurisdiction, the invalidity does not affect other provisions or any other  
15 application of this Act that can be given effect without the invalid provision or application,  
16 and for this purpose the provisions of this Act are declared severable.

17 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
18 apply only prospectively and may not be applied or interpreted to have any effect on or  
19 application to any contractual right of first offer or right of first refusal for the purchase of  
20 an apartment facility, as defined in § 10–801 of the Real Property Article, as enacted by  
21 Section 2 of this Act, created before the effective date of this Act.

22 SECTION 5. AND BE IT FURTHER ENACTED, That for fiscal year 2025, the  
23 Governor shall include in the annual budget bill an appropriation of \$30,000,000 to the  
24 Right of First Refusal Fund.

25 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 2023.