

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 245
Economic Matters

(Delegate Feldman)

Judicial Proceedings

Real Estate Investment Trusts - Declaration of Trust and Bylaws

This bill repeals a provision that requires a real estate investment trust's (REIT) annual shareholder meeting to be held after the delivery of the REIT's annual report. The bill also permits any provisions of the REIT's bylaws to be made dependent upon facts ascertainable outside the bylaws.

Fiscal Summary

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

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

Small Business Effect: None.

Analysis

Current Law: A REIT is an unincorporated business trust or association in which property is acquired, held, managed, administered, controlled, invested, or disposed of for the benefit and profit of any person who may become a shareholder. A REIT's declaration of trust must be filed with the State Department of Assessments and Taxation (SDAT), signed and acknowledged by each trustee, and:

- clearly indicate that the trust is a REIT;
- state the name of the trust and the REIT's total number of authorized shares;
- provide for an annual shareholders' meeting after delivery of the annual report, at a convenient location and on proper notice;

- provide for the election of trustees at least every third year at an annual shareholders' meeting;
- state the names and number of individuals serving as the REIT's trustees until the first shareholders' meeting and until their successors are elected and qualify, or such later time specified in the declaration of trust;
- state the name and address of the REIT's resident agent in the State; and
- include a description of each class of shares, including any preferences, conversion and other rights, voting powers, restrictions, and limitations as to dividends, distributions, qualifications, and terms and conditions of redemption.

Background: The bill cleans up several statutory provisions relating to Maryland's REIT laws. Repealing the requirement that the REIT's annual meeting be held after delivery of the annual report eliminates an inconsistency in current law as an annual report is no longer required to be provided to shareholders. That requirement was repealed by Chapter 586 of 2005. The bill also repeals the phrase "permitted under subsection (a) of this section" in § 8-202(e)(2) because that cross reference is no longer valid. Section 8-202(a) makes no reference to a REIT's bylaws.

Additional Information

Prior Introductions: None.

Cross File: SB 720 (Senator Forehand) - Judicial Proceedings.

Information Source(s): State Department of Assessments and Taxation, Office of the Attorney General, Department of Legislative Services

Fiscal Note History: First Reader - February 9, 2009
ncs/ljm

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