

HB0869/230415/2

BY: Environmental Matters Committee

AMENDMENTS TO HOUSE BILL 869

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, after “of” insert “exempting a certain affordable housing land trust agreement from the application of the common law rule against perpetuities;”; in line 15, after “agreement;” insert “providing that the affordable housing land trust agreement and a certain affidavit shall be recorded and indexed in the county land records in a certain manner and accepted for recordation by the clerk without the payment of certain taxes; establishing that a certain recordation terminates a certain right of rescission and provides certain proof that a contract of sale was not rescinded;”; in line 17, after “circumstances;” insert “requiring a certain seller to execute a certain affidavit concerning certain notification to the affordable housing land trust and the trust’s failure to exercise a certain right to repurchase; requiring the recordation of the affidavit; establishing that the recordation of the affidavit provides certain proof that the affordable housing land trust failed to exercise a certain right of repurchase;”; in line 19, after “manner” insert “and to include a certain notation”; and after line 23, insert:

“BY repealing and reenacting, with amendments,

Article - Estates and Trusts

Section 11-102(b)(11) and (12)

Annotated Code of Maryland

(2001 Replacement Volume and 2009 Supplement)

BY adding to

Article - Estates and Trusts

Section 11-102(b)(13)

Annotated Code of Maryland

(2001 Replacement Volume and 2009 Supplement)”.

(Over)

AMENDMENT NO. 2

On page 2, after line 8, insert:

“Article – Estates and Trusts

11–102.

(b) Subject to §§ 4–409 of this article and 11–103 of this subtitle, the common–law rule against perpetuities as now recognized in the State is preserved, but the rule does not apply to the following:

(11) A nondonative property interest as described in § 11–102.1 of this subtitle; [or]

(12) A trust created under § 14–112 of this article to provide for the care of an animal alive during the lifetime of the settlor; OR

(13) AN AFFORDABLE HOUSING LAND TRUST AGREEMENT EXECUTED UNDER TITLE 14, SUBTITLE 5 OF THE REAL PROPERTY ARTICLE.”.

On page 4, in line 17, after “**THAT**” insert a colon; in line 18, strike “**PROVIDES**” and substitute “**(1) PROVIDES**”; in line 19, strike “**AND THAT IS**” and substitute “**THROUGH AN AFFORDABLE HOUSING LAND TRUST AGREEMENT; AND**

(2) IS”;

and in lines 20 and 23, strike “**(1)**” and “**(2)**”, respectively, and substitute “**(I)**” and “**(II)**”, respectively.

On page 5, after line 18, insert:

“(G) “NONPROFIT STATUS” MEANS THE RECOGNITION BY THE INTERNAL REVENUE SERVICE THAT AN AFFORDABLE HOUSING LAND TRUST IS EXEMPT FROM TAXATION UNDER § 501(C)(2), (3), OR (4) OF THE INTERNAL REVENUE CODE.”.

On page 7, in line 14, strike “**10-205 OF THIS ARTICLE**” and substitute “**14-506 OF THIS SUBTITLE**”; and in line 18, strike “**10-205 OF THIS ARTICLE**” and substitute “**14-507 OF THIS SUBTITLE**”.

AMENDMENT NO. 3

On page 8, in line 14, strike “**INVALID**” and substitute “**VOIDABLE BY THE PURCHASER**”; in line 18, after “**PROPERTY**” insert “**BY THE PURCHASER**”; in line 22, strike “**RECORDED**” and substitute “**;**”

(1) RECORDED”;

in line 23, after “**LOCATED**” insert “**;**”

(2) INDEXED IN THE GRANTOR AND GRANTEE INDICES WITH THE SELLER AS GRANTOR AND THE PURCHASER AS GRANTEE; AND

(3) NOTWITHSTANDING THE FACT THAT A COPY OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT, RATHER THAN THE ORIGINAL, IS OFFERED FOR RECORD WITH THE AFFIDAVIT, ACCEPTED FOR RECORDING BY THE CLERK WITHOUT PAYMENT OF RECORDATION AND TRANSFER TAXES”;

and in line 24, after “**(G)**” insert “**RECORDATION OF A COPY OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT AND THE AFFIDAVIT:**

(1) TERMINATES THE RIGHT OF RESCISSION; AND

(2) PROVIDES A CONCLUSIVE PRESUMPTION THAT A CONTRACT OF SALE WAS NOT RESCINDED.

(H)".

AMENDMENT NO. 4

On page 9, strike beginning with "ANY" in line 10 down through "TRANSFER" in line 11 and substitute "THE RIGHT TO SHARE IN THE PROCEEDS OF THE FIRST SALE TO A PURCHASER FOLLOWING THE FAILURE OF THE LAND TRUST TO EXERCISE ITS RIGHT TO REPURCHASE"; strike beginning with "RESTRICTIONS" in line 21 down through "AGREEMENT" in line 22 and substitute "RIGHTS ESTABLISHED IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT THAT WOULD OTHERWISE HAVE BEEN ENFORCEABLE BY THE AFFORDABLE HOUSING LAND TRUST"; after line 22, insert:

"(3) (I) A SELLER WHO SELLS THE SPECIFIED INTEREST IN THE PROPERTY TO A PURCHASER IN AN ARMS-LENGTH THIRD-PARTY TRANSACTION FOR A FAIR MARKET PRICE AFTER THE AFFORDABLE HOUSING LAND TRUST HAS FAILED TO EXERCISE ITS RIGHT TO REPURCHASE SHALL EXECUTE A SIGNED, NOTARIZED AFFIDAVIT ATTESTING TO THE FACT OF THE SELLER'S NOTIFICATION TO THE AFFORDABLE HOUSING LAND TRUST AND THE AFFORDABLE HOUSING LAND TRUST'S FAILURE TO EXERCISE ITS RIGHT TO REPURCHASE.

(II) THE AFFIDAVIT SHALL BE RECORDED WITH THE DEED TRANSFERRING THE SPECIFIED INTEREST IN THE PROPERTY TO THE PURCHASER IN ACCORDANCE WITH § 14-505(F) OF THIS SUBTITLE.

(III) RECORDATION OF THE AFFIDAVIT UNDER THIS PARAGRAPH PROVIDES A CONCLUSIVE PRESUMPTION OF THE FACT THAT THE AFFORDABLE HOUSING LAND TRUST FAILED TO EXERCISE ITS RIGHT TO REPURCHASE.”;

and strike beginning with “**TO**” in line 30 down through “**OBTAINED**” in line 31 and substitute “**UNDER TITLE 14, CHAPTER 300 OF THE MARYLAND RULES**”.

On page 10, in line 23, before “**IN**” insert “**(A)**”; and after line 26, insert:

“(B) THE ASSESSMENT SHALL NOTE THAT THE SALE WAS NOT AN ARMS-LENGTH TRANSFER ON THE PROPERTY TAX RECORD.”.

AMENDMENT NO. 5

On page 9, in line 4, strike “**60**” and substitute “**120**”.