

Chapter 609

(Senate Bill 780)

AN ACT concerning

Real Property – Affordable Housing Land Trusts

FOR the purpose of exempting a certain affordable housing land trust agreement from the application of the common law rule against perpetuities; authorizing a certain affordable housing land trust agreement to be recorded in the land records; exempting a certain affordable housing land trust agreement from certain provisions relating to a possibility of reverter and right of entry; exempting a certain affordable housing land trust agreement from certain provisions relating to the creation and redemption of reversionary interests; providing for the applicability of this Act; requiring an affordable housing land trust to register with the State Department of Assessments and Taxation; requiring the Department to maintain an online list of registered affordable housing land trusts; authorizing an affordable housing land trust to conduct certain activities relating to the acquisition, leasing, management, maintenance, and preservation of residential real property under certain circumstances; imposing certain conditions on an affordable housing land trust agreement; 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certain recordation terminates a certain right of rescission and provides certain proof that a contract of sale was not rescinded; authorizing an affordable housing land trust to repurchase any interest in or take possession of certain residential property under certain circumstances; 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; limiting the reversionary interest of an affordable housing land trust under certain circumstances; requiring a tax assessment of certain affordable housing trust property to be done in a certain manner and to include a certain notation; prohibiting a nonprofit organization from operating an affordable housing land trust under certain circumstances; providing for the transfer of certain property interests under certain circumstances; defining certain terms; and generally relating to affordable housing land trusts.

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)

BY repealing and reenacting, with amendments,

Article – Real Property
Section 3–102(a), 6–101, 8–110(a), and 8–111.2
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY adding to

Article – Real Property
Section 14–501 through 14–511 to be under the new subtitle “Subtitle 5.
Affordable Housing Land Trusts”
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

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.

Article – Real Property

3–102.

(a) (1) Any other instrument affecting property, including any contract for the grant of property, or any subordination agreement establishing priorities between interests in property may be recorded.

(2) The following instruments also may be recorded:

(i) Any notice of deferred property footage assessment for street construction;

(ii) Any boundary survey plat signed and sealed by a professional land surveyor or property line surveyor licensed in the State;

(iii) Any assumption agreement by which a person agrees to assume the liability of a debt or other obligation secured by a mortgage or deed of trust;

(iv) Any release of personal liability of a borrower or guarantor under a mortgage or under a note or other obligation secured by a deed of trust; [or]

(v) A ground rent redemption certificate or a ground rent extinguishment certificate issued under § 8–110 of this article or a ground lease extinguishment certificate issued under § 8–708 of this article; **OR**

(VI) AN AFFORDABLE HOUSING LAND TRUST AGREEMENT EXECUTED UNDER TITLE 14, SUBTITLE 5 OF THIS ARTICLE WITH ANY TRANSFER OF PROPERTY FOR WHICH AN AFFORDABLE HOUSING LAND TRUST HAS A REVERSIONARY INTEREST.

(3) The recording of any instrument constitutes constructive notice from the date of recording.

6–101.

(a) THIS SECTION DOES NOT APPLY TO AN AFFORDABLE HOUSING LAND TRUST AGREEMENT EXECUTED UNDER TITLE 14, SUBTITLE 5 OF THIS ARTICLE.

(B) This section is effective on July 1, 1969, with respect to (1) inter vivos instruments taking effect on or after that date, (2) wills of persons who die on or after that date, and (3) appointments by inter vivos instruments or wills made on or after that date under powers created before that date.

[(b)] (C) If the specified contingency of a special limitation creating a possibility of reverter or of a condition subsequent creating a right of entry for condition broken does not occur within 30 years of the effective date of the instrument creating the possibility or condition, the possibility or condition no longer is valid thereafter.

8-110.

(a) (1) This section does not apply to leases of property leased for business, commercial, manufacturing, mercantile, or industrial purposes or any other purpose which is not primarily residential, where the term of the lease, including all renewals provided for, does not exceed 99 years. A lease of the entire property improved or to be improved by any apartment, condominium, cooperative, or other building for multiple-family use on the property constitutes a business and not a residential purpose. The term "multiple-family use" does not apply to any duplex or single-family structure converted to a multiple-dwelling unit.

(2) Except as provided in subsection (f) of this section, this section does not apply to irredeemable leases executed before April 9, 1884.

(3) This section does not apply to leases of the ground or site upon which dwellings or mobile homes are erected or placed in a mobile home development or mobile home park.

(4) THIS SECTION DOES NOT APPLY TO AN AFFORDABLE HOUSING LAND TRUST AGREEMENT EXECUTED UNDER TITLE 14, SUBTITLE 5 OF THIS ARTICLE.

8-111.2.

(a) This section does not apply to property:

(1) Leased for business, commercial, manufacturing, mercantile, or industrial purposes, or any other purpose that is not primarily residential;

(2) Improved or to be improved by any apartment, condominium, cooperative, or other building for multifamily use of greater than four dwelling units; [or]

(3) Leased for dwellings or mobile homes that are erected or placed in a mobile home development or mobile home park; **OR**

(4) SUBJECT TO AN AFFORDABLE HOUSING LAND TRUST AGREEMENT EXECUTED UNDER TITLE 14, SUBTITLE 5 OF THIS ARTICLE.

(b) On or after January 22, 2007, the owner of a fee simple or leasehold estate in residential property that is or was used, intended to be used, or authorized to be used for four or fewer dwelling units may not create a reversionary interest in the property under a ground lease or a ground sublease for a term of years renewable forever subject to the payment of a periodic ground rent.

SUBTITLE 5. AFFORDABLE HOUSING LAND TRUSTS.

14-501.

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

(B) "AFFORDABLE HOUSING LAND TRUST" MEANS AN ENTITY THAT:

(1) ~~PROVIDES~~ PROVIDES AFFORDABLE HOUSING TO LOW-INCOME FAMILIES AND MODERATE-INCOME FAMILIES ~~AND THAT IS THROUGH AN AFFORDABLE HOUSING LAND TRUST AGREEMENT; AND~~

(2) IS ORGANIZED OR MANAGED BY:

~~(1)~~ (I) A NONPROFIT ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C)(2), (3), OR (4) OF THE UNITED STATES INTERNAL REVENUE CODE; OR

~~(2)~~ (II) A UNIT OR INSTRUMENTALITY OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

(C) "AFFORDABLE HOUSING LAND TRUST AGREEMENT" MEANS AN AGREEMENT BETWEEN AN AFFORDABLE HOUSING LAND TRUST AND A PURCHASER OF REAL PROPERTY OWNED BY THE AFFORDABLE HOUSING LAND TRUST, OR FOR WHICH THE AFFORDABLE HOUSING LAND TRUST HAS A PROPRIETARY OR REVERSIONARY INTEREST, THAT:

(1) GRANTS THE AFFORDABLE HOUSING LAND TRUST A PREEMPTIVE RIGHT TO PURCHASE OR REPURCHASE THE PROPERTY, INCLUDING ANY IMPROVEMENTS ON THE PROPERTY;

(2) CONTAINS LANGUAGE RESTRICTING THE TRANSFER, LEASE, SUBLEASE, ASSIGNMENT, OR OCCUPANCY OF THE PROPERTY WITH REGARD TO:

(I) POTENTIAL TRANSFEREES, SUBLESSEES, ASSIGNEES, OR OCCUPANTS; AND

(II) THE PRICE AT WHICH THE PROPERTY MAY BE TRANSFERRED; OR

(3) IMPOSES OTHER CONDITIONS ON THE USE OR TRANSFER OF THE PROPERTY THAT WOULD TRIGGER A REVERSIONARY INTEREST AND THAT

ARE DESIGNED TO ENSURE THAT THE PROPERTY REMAINS AVAILABLE AND AFFORDABLE TO LOW-INCOME FAMILIES AND MODERATE-INCOME FAMILIES.

(D) “FAMILY” MEANS A HOUSEHOLD CONSISTING OF ONE OR MORE INDIVIDUALS.

(E) “LOW-INCOME FAMILY” MEANS A HOUSEHOLD WITH AN INCOME THAT DOES NOT EXCEED 80% OF THE AREA MEDIAN INCOME FOR A HOUSEHOLD OF THE SAME SIZE.

(F) “MODERATE-INCOME FAMILY” MEANS A HOUSEHOLD WITH AN INCOME THAT DOES NOT EXCEED 140% OF THE AREA MEDIAN INCOME FOR A HOUSEHOLD OF THE SAME SIZE.

(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.

14-502.

(A) AN AFFORDABLE HOUSING LAND TRUST AGREEMENT CREATED UNDER THIS SUBTITLE:

(1) IS NOT A GROUND LEASE; AND

(2) IS NOT SUBJECT TO ANY PROVISION CONCERNING GROUND LEASES UNDER TITLE 8 OR TITLE 14, SUBTITLE 1 OF THIS ARTICLE OR UNDER ANY OTHER PROVISION OF THE CODE.

(B) THIS SUBTITLE DOES NOT APPLY TO ANY GROUND LEASE THAT IS SUBJECT TO TITLE 8 OR TITLE 14, SUBTITLE 1 OF THIS ARTICLE.

(C) THIS SUBTITLE MAY NOT BE CONSTRUED TO EXEMPT ANY AFFORDABLE HOUSING LAND TRUST OR ANY AFFORDABLE HOUSING LAND TRUST AGREEMENT FROM ANY PROVISION OF LAW MANDATING EQUAL TREATMENT OR PROHIBITING DISCRIMINATION.

14-503.

(A) IN THIS SECTION, “DEPARTMENT” MEANS THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

(B) EACH AFFORDABLE HOUSING LAND TRUST SHALL REGISTER ITS CREATION WITH THE DEPARTMENT ON A FORM PRESCRIBED BY THE DEPARTMENT.

(C) AN AFFORDABLE HOUSING LAND TRUST SHALL SUBMIT UPDATES RELATING TO ITS ORGANIZATION, TAX STATUS, ADDRESS, OFFICERS, AND ANY OTHER INFORMATION AS REQUIRED BY THE DEPARTMENT.

(D) (1) THE DEPARTMENT SHALL MAINTAIN AN ONLINE LIST OF REGISTERED AFFORDABLE HOUSING LAND TRUSTS IN THE STATE.

(2) THE DEPARTMENT IS NOT RESPONSIBLE FOR THE COMPLETENESS OR ACCURACY OF THE CONTENTS OF THE ONLINE LIST OR THE ACCURACY OF ANY REGISTRATION.

(E) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT AND ENFORCE THE PROVISIONS OF THIS SECTION.

14-504.

IN ACCORDANCE WITH THIS SUBTITLE, AN AFFORDABLE HOUSING LAND TRUST MAY:

(1) ACQUIRE RESIDENTIAL REAL PROPERTY;

(2) ACQUIRE AN INTEREST IN PROPERTY FOR THE CONSTRUCTION OF RESIDENTIAL REAL PROPERTY;

(3) MAKE IMPROVEMENTS ON RESIDENTIAL REAL PROPERTY;

(4) ENTER INTO AFFORDABLE HOUSING LAND TRUST AGREEMENTS WITH PERSONS WHO MEET THE CRITERIA SET OUT IN THIS SUBTITLE AND ANY OTHER CRITERIA AS ESTABLISHED IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT FOR THE TRANSFER OF AN INTEREST IN RESIDENTIAL REAL PROPERTY; AND

(5) ENGAGE IN OTHER ACTIVITIES RELATED TO THE SALE, LEASING, MANAGEMENT, MAINTENANCE, AND PRESERVATION OF PROPERTIES UNDER THE CONTROL OF THE AFFORDABLE HOUSING LAND TRUST.

14-505.

(A) AN AFFORDABLE HOUSING LAND TRUST AGREEMENT MAY:

(1) RESTRICT THE TRANSFER, LEASE, SUBLEASE, OR ASSIGNMENT OF POSSESSION OR OF ANY INTEREST IN THE PROPERTY TO A PERSON WHO DOES NOT MEET THE CONDITIONS SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT FOR THAT PROPERTY;

(2) GRANT THE AFFORDABLE HOUSING LAND TRUST THE RIGHT TO REPURCHASE ANY INTEREST IN THE PROPERTY AND ANY IMPROVEMENTS ON THE PROPERTY UNDER TERMS SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT AND IN ACCORDANCE WITH THE REQUIREMENTS OF ~~§ 10-205 OF THIS ARTICLE~~ 14-506 OF THIS SUBTITLE;

(3) GRANT THE AFFORDABLE HOUSING LAND TRUST THE RIGHT TO TAKE POSSESSION OF THE PROPERTY AND SELL THE PROPERTY IF A CONDITION DEFINED IN THE AGREEMENT IS MET AND IN ACCORDANCE WITH THE REQUIREMENTS OF ~~§ 10-205 OF THIS ARTICLE~~ 14-507 OF THIS SUBTITLE;

(4) PROVIDE FOR THE REVERSION OF THE PROPERTY AT THE END OF THE TERM OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT UNDER CONDITIONS SET FORTH IN THE AGREEMENT;

(5) PROVIDE A MECHANISM OR FORMULA FOR THE SHARING OF ANY PROCEEDS FROM A FUTURE SALE OR TRANSFER OF AN INTEREST IN THE PROPERTY UNDER TERMS SET FORTH IN THE AGREEMENT; AND

(6) PROVIDE OTHER MECHANISMS TO ENFORCE THE TERMS OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT.

(B) AN AFFORDABLE HOUSING LAND TRUST SHALL RECORD ANY AFFORDABLE HOUSING LAND TRUST AGREEMENT IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION AND TITLE 3 OF THIS ARTICLE.

(C) AN AFFORDABLE HOUSING LAND TRUST AGREEMENT:

(1) MAY NOT EXTEND FOR A TERM LONGER THAN 99 YEARS; AND

(2) MAY BE RENEWED UNDER CONDITIONS SET FORTH IN THE AGREEMENT.

(D) AN AFFORDABLE HOUSING LAND TRUST AGREEMENT SHALL:

(1) BE IN WRITING; AND

(2) CLEARLY IDENTIFY EACH TERM AND CONDITION.

(E) (1) A COPY OF AN AFFORDABLE HOUSING LAND TRUST AGREEMENT SHALL BE PROVIDED TO THE PURCHASER OF ANY PROPERTY COVERED BY THE AGREEMENT AT LEAST 15 DAYS BEFORE THE PURCHASER ENTERS INTO A CONTRACT ACQUIRING AN INTEREST IN OR POSSESSION OF ANY PROPERTY COVERED BY THE AGREEMENT.

(2) (I) IF A COPY OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT IS NOT PROVIDED AS REQUIRED UNDER THIS SUBSECTION, A CONTRACT ENTERED INTO BY A PURCHASER OF ANY PROPERTY COVERED BY THE AGREEMENT IS ~~INVALID~~ VOIDABLE BY THE PURCHASER.

(II) THE FAILURE TO PROVIDE A COPY OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT AS REQUIRED UNDER THIS SUBSECTION IS CAUSE FOR THE RESCISSION OF ANY TRANSACTION INVOLVING THE TRANSFER OF ANY INTEREST IN THE PROPERTY BY THE PURCHASER.

(F) A COPY OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT AND A SIGNED, NOTARIZED AFFIDAVIT ACKNOWLEDGING RECEIPT OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT BY THE TRANSFEREE SHALL BE ~~RECORDED:~~

(1) RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED;

(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.

(G) 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) THE TERMS OF AN AFFORDABLE HOUSING LAND TRUST AGREEMENT MAY BE MODIFIED OR CHANGED ONLY WITH THE WRITTEN CONSENT OF ALL THE PARTIES.

14-506.

(A) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, AN AFFORDABLE HOUSING LAND TRUST AGREEMENT MAY AUTHORIZE THE AFFORDABLE HOUSING LAND TRUST TO REPURCHASE ANY INTEREST IN THE PROPERTY COVERED AND ANY IMPROVEMENTS ON IT UNDER CONDITIONS SET FORTH IN THE AGREEMENT.

(2) THE TIME PERIOD DURING WHICH THE AFFORDABLE HOUSING LAND TRUST MAY EXERCISE THE RIGHT TO REPURCHASE SHALL BE SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT AND MAY NOT EXCEED ~~60~~ 120 DAYS FROM THE DATE THAT THE AFFORDABLE HOUSING LAND TRUST RECEIVES NOTICE OF AN EVENT THAT WOULD GIVE THE AFFORDABLE HOUSING LAND TRUST THE RIGHT TO EXERCISE THE RIGHT TO REPURCHASE.

(3) THE FAILURE OF AN AFFORDABLE HOUSING LAND TRUST TO EXERCISE THE RIGHT TO REPURCHASE DOES NOT PROHIBIT THE AFFORDABLE HOUSING LAND TRUST FROM EXERCISING ANY OTHER RIGHT ESTABLISHED IN THE AGREEMENT, INCLUDING ~~ANY PROVISION TO SHARE IN THE PROCEEDS OF ANY TRANSFER~~ 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.

(B) (1) EXCEPT AS PROVIDED IN SUBSECTION (A)(3) OF THIS SECTION OR IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT, THE FAILURE TO EXERCISE A RIGHT TO REPURCHASE EXTINGUISHES THE RIGHT OF THE AFFORDABLE HOUSING LAND TRUST TO EXERCISE ANY REVERSIONARY INTEREST IN THE FUTURE.

(2) A SUBSEQUENT PURCHASER WHO ACQUIRES THE SPECIFIED INTEREST IN THE PROPERTY IN AN ARMS-LENGTH, THIRD-PARTY TRANSACTION FOR A FAIR MARKET PRICE AFTER THE AFFORDABLE HOUSING LAND TRUST HAS NOT EXERCISED ITS RIGHT TO REPURCHASE RECEIVES TITLE, FREE OF ANY ~~RESTRICTIONS ARISING AS A RESULT OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT~~ RIGHTS ESTABLISHED IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT THAT WOULD OTHERWISE HAVE BEEN ENFORCEABLE BY THE AFFORDABLE HOUSING LAND TRUST.

(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.

14-507.

AN AFFORDABLE HOUSING LAND TRUST AGREEMENT MAY AUTHORIZE THE AFFORDABLE HOUSING LAND TRUST TO TAKE POSSESSION OF THE PROPERTY AND ANY IMPROVEMENTS AND SELL OR TRANSFER THE SPECIFIED INTEREST IN THE PROPERTY IF:

(1) A CONDITION DEFINED IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT AUTHORIZING THE ACTION IS MET;

(2) THE SALE IS MADE ~~TO A DISINTERESTED PARTY UNDER CONDITIONS THAT ENSURE THAT A FAIR MARKET PRICE IS OBTAINED~~ UNDER TITLE 14, CHAPTER 300 OF THE MARYLAND RULES;

(3) THE OWNER OF THE INTEREST IN THE PROPERTY RETAINS THE RIGHT TO ANY PROCEEDS OF A SALE AS SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT; AND

(4) THE RIGHT OF THE OWNER TO THE PROCEEDS HAS PRECEDENCE OVER ANY CLAIM BY THE AFFORDABLE HOUSING LAND TRUST TO THE PROCEEDS OF THE SALE.

14-508.

THE REVERSIONARY RIGHTS OF AN AFFORDABLE HOUSING LAND TRUST AS SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT ARE LIMITED TO PROVISIONS THAT RELATE TO:

(1) THE TRANSFER OF THE PROPERTY TO A PERSON WHO IS NOT A PARTY TO THE AGREEMENT OR A PERSON WHO DOES NOT MEET THE CONDITIONS SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT;

(2) THE POSSESSION OF THE PROPERTY BY A PERSON WHO DOES NOT MEET THE CONDITIONS SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT;

(3) THE TRANSFER OF AN INTEREST IN THE PROPERTY TO A PERSON WHO DOES NOT MEET THE CONDITIONS SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT;

(4) THE WASTE, DESTRUCTION, OR ABANDONMENT OF THE PROPERTY; OR

(5) THE FAILURE TO COMPLY WITH ANY FINANCIAL PROVISION IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT.

14-509.

(A) IN ANY ASSESSMENT FOR TAX PURPOSES OF PROPERTY SUBJECT TO AN AFFORDABLE HOUSING LAND TRUST AGREEMENT, THE PROPERTY SHALL BE ASSESSED BASED ON ITS MARKET VALUE SUBJECT TO ANY RESTRICTIONS IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT.

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

14-510.

(A) A NONPROFIT ORGANIZATION OPERATING AN AFFORDABLE HOUSING LAND TRUST THAT GIVES UP OR LOSES ITS NONPROFIT STATUS MAY NO LONGER OPERATE AN AFFORDABLE HOUSING LAND TRUST UNDER THE TERMS OF THIS SUBTITLE.

(B) A NONPROFIT ORGANIZATION OPERATING AN AFFORDABLE HOUSING LAND TRUST MAY TRANSFER ITS INTEREST IN ANY AFFORDABLE HOUSING LAND TRUST AGREEMENT TO ANOTHER AFFORDABLE HOUSING LAND

TRUST, PROVIDED THAT THE NONPROFIT ORGANIZATION DOES NOT RECEIVE ANY FINANCIAL OR OTHER VALUABLE COMPENSATION FOR THE TRANSFER OTHER THAN COMPENSATION FOR INCIDENTAL COSTS ASSOCIATED WITH THE TRANSFER.

(C) IF A NONPROFIT ORGANIZATION OPERATING AN AFFORDABLE HOUSING LAND TRUST GIVES UP OR LOSES ITS NONPROFIT STATUS AND DOES NOT TRANSFER ITS INTEREST IN AN AFFORDABLE HOUSING LAND TRUST AGREEMENT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE AFFORDABLE HOUSING LAND TRUST AGREEMENT IS ABROGATED AND ANY REVERSIONARY INTEREST CONTAINED IN THE AGREEMENT OR ANY PROVISION FOR THE SHARING OF PROCEEDS BECOMES UNENFORCEABLE.

(D) IF AN AFFORDABLE HOUSING LAND TRUST AGREEMENT BECOMES UNENFORCEABLE, THE TITLE HOLDER TO THE PROPERTY OBTAINS FEE SIMPLE TITLE TO THE PROPERTY WITHOUT RESTRICTION.

14-511.

THIS SUBTITLE MAY BE CITED AS THE AFFORDABLE HOUSING LAND TRUST ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.