

HOUSE BILL 248

N1

1lr1040

(PRE-FILED)

By: **Delegate Shetty**

Requested: October 20, 2020

Introduced and read first time: January 13, 2021

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 26, 2021

CHAPTER _____

1 AN ACT concerning

2 **Condominiums and Homeowners Associations – Rights and Restrictions –**
3 **Composting**

4 FOR the purpose of prohibiting a recorded covenant or restriction, a provision in a
5 declaration, or a provision in the bylaws or rules of a condominium or a homeowners
6 association from ~~restricting or prohibiting~~ prohibiting or unreasonably restricting a
7 certain owner from composting organic waste materials for certain uses under
8 certain circumstances or contracting with a private entity for the collection of organic
9 waste materials for composting at a composting facility; providing for the
10 interpretation of a certain covenant, restriction, or provision that unreasonably
11 impedes the ability of a private entity to access certain common elements for the
12 purpose of collecting certain organic waste materials; defining certain terms; and
13 generally relating to condominiums and homeowners associations.

14 BY repealing and reenacting, without amendments,
15 Article – Environment
16 Section 9–1701(a) and (e)
17 Annotated Code of Maryland
18 (2014 Replacement Volume and 2020 Supplement)

19 BY adding to
20 Article – Real Property
21 Section 11–111.4 and 11B–111.8
22 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(2015 Replacement Volume and 2020 Supplement)

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

Article – Environment

9–1701.

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

(e) (1) “Composting facility” means a facility where composting takes place.

(2) “Composting facility” does not include a facility that is required to
obtain:

(i) A natural wood waste recycling facility permit in accordance with
this title;

(ii) A sewage sludge utilization permit in accordance with this title;
or

(iii) A refuse disposal permit in accordance with this title.

Article – Real Property

11–111.4.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

(2) “COMPOSTING” MEANS THE CONTROLLED AEROBIC BIOLOGICAL
DECOMPOSITION OF ORGANIC WASTE MATERIAL.

(3) “COMPOSTING FACILITY” HAS THE MEANING STATED IN § 9–1701
OF THE ENVIRONMENT ARTICLE.

(B) A RECORDED COVENANT OR RESTRICTION, A PROVISION IN A
DECLARATION, OR A PROVISION IN THE BYLAWS OR RULES OF A CONDOMINIUM MAY
NOT ~~RESTRICT OR PROHIBIT~~ PROHIBIT OR UNREASONABLY RESTRICT A UNIT
OWNER FROM:

~~(1) COMPOSTING ORGANIC WASTE MATERIALS FOR THE UNIT
OWNER’S PERSONAL OR HOUSEHOLD USE, PROVIDED THAT THE UNIT OWNER OWNS
OR HAS THE RIGHT TO EXCLUSIVE USE OF THE AREA WHERE THE COMPOSTING IS
CONDUCTED; OR~~

1 ~~(2) CONTRACTING~~ CONTRACTING WITH A PRIVATE ENTITY TO
 2 COLLECT ORGANIC WASTE MATERIALS FROM THE UNIT OWNER FOR COMPOSTING AT
 3 A COMPOSTING FACILITY.

4 (C) A RECORDED COVENANT OR RESTRICTION, A PROVISION IN A
 5 DECLARATION, OR A PROVISION IN THE BYLAWS OR RULES OF A CONDOMINIUM
 6 THAT UNREASONABLY IMPEDES THE ABILITY OF A PRIVATE ENTITY TO ACCESS THE
 7 COMMON ELEMENTS FOR THE PURPOSE OF COLLECTING ORGANIC WASTE
 8 MATERIALS FROM A UNIT OWNER SHALL BE INTERPRETED AS A RESTRICTION ON
 9 THE UNIT OWNER'S RIGHT TO CONTRACT FOR PRIVATE COMPOSTING SERVICES
 10 UNDER SUBSECTION ~~(B)(2)~~ (B) OF THIS SECTION.

11 11B-111.8.

12 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 13 INDICATED.

14 (2) "COMPOSTING" MEANS THE CONTROLLED AEROBIC BIOLOGICAL
 15 DECOMPOSITION OF ORGANIC WASTE MATERIAL.

16 (3) "COMPOSTING FACILITY" HAS THE MEANING STATED IN § 9-1701
 17 OF THE ENVIRONMENT ARTICLE.

18 (4) "LOCAL JURISDICTION" MEANS THE COUNTY OR MUNICIPALITY
 19 WHERE THE HOMEOWNERS ASSOCIATION IS LOCATED.

20 (B) A RECORDED COVENANT OR RESTRICTION, A PROVISION IN A
 21 DECLARATION, OR A PROVISION IN THE BYLAWS OR RULES OF A HOMEOWNERS
 22 ASSOCIATION MAY NOT ~~RESTRICT OR PROHIBIT~~ PROHIBIT OR UNREASONABLY
 23 RESTRICT A LOT OWNER FROM:

24 (1) COMPOSTING ORGANIC WASTE MATERIALS FOR THE LOT OWNER'S
 25 PERSONAL OR HOUSEHOLD USE, PROVIDED THAT THE LOT OWNER ~~OWNS~~:

26 (i) OWNS OR HAS THE RIGHT TO EXCLUSIVE USE OF THE AREA
 27 WHERE THE COMPOSTING IS CONDUCTED; ~~OR~~ AND

28 (ii) OBSERVES ALL LAWS, ORDINANCES, AND REGULATIONS OF
 29 THE STATE AND LOCAL JURISDICTION THAT PERTAIN TO COMPOSTING; OR

30 (2) CONTRACTING WITH A PRIVATE ENTITY TO COLLECT ORGANIC
 31 WASTE MATERIALS FROM THE LOT OWNER FOR COMPOSTING AT A COMPOSTING
 32 FACILITY.

1 **(C) A RECORDED COVENANT OR RESTRICTION, A PROVISION IN A**
 2 **DECLARATION, OR A PROVISION IN THE BYLAWS OR RULES OF A HOMEOWNERS**
 3 **ASSOCIATION THAT UNREASONABLY IMPEDES THE ABILITY OF A PRIVATE ENTITY TO**
 4 **ACCESS THE COMMON ELEMENTS FOR THE PURPOSE OF COLLECTING ORGANIC**
 5 **WASTE MATERIALS FROM A LOT OWNER SHALL BE INTERPRETED AS A RESTRICTION**
 6 **ON THE LOT OWNER’S RIGHT TO CONTRACT FOR PRIVATE COMPOSTING SERVICES**
 7 **UNDER SUBSECTION (B)(2) OF THIS SECTION.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 9 October 1, 2021.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.