

Chapter 459

(House Bill 248)

AN ACT concerning

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

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

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

BY adding to
 Article – Real Property
 Section 11–111.4 and 11B–111.8
 Annotated Code of Maryland
 (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;

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

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

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

11B-111.8.

(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.

(4) “LOCAL JURISDICTION” MEANS THE COUNTY OR MUNICIPALITY WHERE THE HOMEOWNERS ASSOCIATION IS LOCATED.

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

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

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

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

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

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

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

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.