



**TO: House Environment and Transportation Committee**

**FROM: Maryland Multi-Housing Association**

**SUBJECT: House Bill 952 Real Property – Sale of Apartment Facilities – Rights of Qualified Organizations**

**DATE: February 19, 2021**

**POSITION: Unfavorable**

Background:

This testimony is offered on behalf of Maryland Multi-Housing Association (MMHA). We are a professional trade association established in 1996, whose members consists of owners and managers of more than 210,000 rental housing homes in over 870 apartment communities. Our members house over 556,000 residents of the State of Maryland and we have 250 associate member companies who supply goods and services to the multi-housing industry.

Bill Summary:

House Bill 952 Real Property- Sale of Apartment Facilities- Rights of Qualified Organizations establishes notice of intent to sell requirements for certain apartment facility owners. Under the bill, an owner must notify the Department of Housing and Community Development of intent to sell and provide certain information in the notice, and DHCD is then required to post the information online for 10 days. During that time, a qualified organization may send notice of expression of interest to the owner or seller's agent. The owner or seller's agent shall then provide the qualified organization with a disclosure package that includes, at minimum, the requested purchase price or starting bid if one has been established for the apartment facility; the annual expenses associated with operating the apartment facility (including management, insurance, utilities, and regular maintenance costs); and a list of known latent defects of the apartment facility and, if available, the reserve study of the apartment facility. Within 10 business days after receiving the disclosure package, a qualified organization that is interested in submitting an offer to purchase the apartment facility shall confirm its interest by sending written notice to the owner of or the seller's agent for the apartment facility. Within 60 days after receiving the disclosure package, a qualified organization that has confirmed its interest shall submit a written offer to purchase by electronic means or certified mail to the owner or seller's agent. The owner may reject the offer from a qualified organization, but if they intend to accept an offer made by a person other than a qualified organization to purchase the apartment facility for a price that is less than the price offered by a qualifying organization, the owner shall:

1. Notify the qualified organization by certified mail or electronic means of the offer the owner intends to accept; and
2. Provide the qualified organization with a right of first refusal to purchase the apartment facility under the same terms as those proposed in the offer the owner intends to accept.



Within 10 days after receiving the notice, a qualified organization shall notify the owner of or the seller's agent for the apartment facility of the organization's intent to accept or reject the terms by certified mail or electronic means. If the owner of or the seller's agent for the apartment facility does not receive an acceptance from a qualified organization, the owner then may accept the offer from the person that is not a qualified organization. If the owner of or the seller's agent for the apartment facility receives an acceptance from more than one qualified organization, the owner shall sell the apartment facility to the qualifying organization that made its acceptance first. A qualified organization that purchases an apartment facility shall allow a tenant whose tenancy began before the sale of the apartment facility to continue the tenancy until the end of the lease but may restrict new tenancies created after the sale of the apartment facility as allowed or required by law.

Position:

The Maryland Multi-Housing Association supports efforts to create and preserve affordable rental housing. However, adding 10 business days to as long as a few months to the apartment sale transaction timeline could have the opposite impact on housing affordability. HB 952 adds time, costs, and burdensome documentation and mailing requirements to the sales and acquisition process, a process that is already complex, but which still requires expediency. New apartment owners who have may have had to wait an extended period of time until after qualified organizations investigated their interest and considered making offers may increase rents to offset the costs of waiting to do business and the cost of additional disclosure requirements.

HB 952 could also jeopardize 1031 exchanges, which are popular tools used in real estate transactions. In 1031 exchanges, the Exchangor has 45 days from when they sell a property to nominate potential replacement properties, and 180 days to acquire the replacement property. If an owner or seller's agent has just sold a property, they may be hesitant to jeopardize their 1031 exchange by pursuing a new property in Maryland due to unpredictability and potential delays caused by the process outlined in this bill.

Legislating such complex and burdensome policy at a time when the rental housing industry is suffering such historical losses, in the especially market-rate affordable rental housing sector, would discourage real estate investment in Maryland and ultimately hinder local government revenue due to a lack of real estate transactions.

For the reasons mentioned above, MMHA strongly urges that the Committee give HB 952 and unfavorable report.

**For more information, please contact Jessie Keller, MMHA Government and Community Affairs Manager. 410.413.1420 [jkeller@mmhaonline.org](mailto:jkeller@mmhaonline.org)**