

Bill No. 31-01
Concerning: Moderately Priced
Dwelling Units - Amendments
Revised: 11-2-01 Draft No. 3
Introduced: September 11, 2001
Enacted: November 6, 2001
Executive: November 19, 2001
Effective: February 18, 2002
Sunset Date: None
Ch. 25, Laws of Mont. Co. 2001

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Berlage, Silverman, Denis, and Praisner

AN ACT to:

- (1) revise certain provisions of law regulating the sale and resale of moderately priced dwelling units; and
- (2) generally amend the law governing moderately priced dwelling units.

By amending

Montgomery County Code
Chapter 25A, Housing, Moderately Priced
Sections 25A-3, 25A-8, and 25A-9

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Sections 25A-3, 25A-8, and 25A-9 are amended as follows:

25A-3. Definitions.

The following words and phrases, as used in this Chapter, have the following meanings:

* * *

(g) *Control period* means the time an MPDU is subject to either resale price controls and owner occupancy requirements or maximum rental limits, as provided in Section 25A-9. The control period is 10 years for sale units and 20 years for rental units, and begins on the date of initial sale or rental. If a sale or rental MPDU is sold to an eligible person within 10 years after its initial sale or rental, and if (in the case of a sale MPDU that is not bought and resold by a government agency) the unit was originally offered for sale after March 1, 2002, the unit must be treated as a new sale MPDU and a new control period must begin on the date of the sale.

* * *

25A-8. Sale or rental of moderately priced dwelling units.

* * *

(b) *Department of Housing and Community Affairs, Housing Opportunities Commission or other designated housing development agency or corporation.*

(1) In view of the critical, long-term public need for housing for families of low and moderate income, the Department, the Commission, or any other housing development agency or nonprofit corporation designated by the County Executive [has the option to] may buy or lease, for its own programs or programs administered by it, up to 40 percent of all MPDUs

28 which are not sold or rented under any other federal, state, or
29 local program. The Department or Commission may buy or lease
30 [upon] up to 33 percent of the MPDUs not sold or rented under
31 any other federal, state, or local program. Any other designated
32 agency or corporation may buy or lease (A) any MPDU[s] in the
33 first 33 percent that HOC has not bought or leased, and (B) the
34 remainder of the 40 percent. This option may be assigned to
35 persons of low or moderate income who are eligible for
36 assistance under any federal, state, or local program identified in
37 regulations adopted by the [County] Executive. The [County]
38 Executive must, by regulation, adopt standards and priorities for
39 designating nonprofit corporations under this subsection. These
40 standards must require the corporation to demonstrate its ability
41 to operate and maintain MPDUs satisfactorily on a long-term
42 basis.

43 (2) The Department must notify the Commission or other designated
44 agency or corporation promptly after receiving notice from the
45 applicant under subsection (a) of the availability of MPDUs. If
46 the Department, the Commission, or any other designated agency
47 or corporation exercises its option, it must submit to the
48 applicant, within 21 calendar days after the Department notifies
49 the Commission under subsection (b), a notice of intent to
50 exercise its option for specific MPDUs covered by this option.
51 Any MPDUs not bought or leased under this subsection must be
52 sold or rented only to eligible persons under subsection (b) during
53 the priority marketing period for eligible persons to buy or lease.

54 (3) In exercising this option, the Department, the Commission, and

55 any designated agency or corporation must designate the units by
 56 reference to number, type, size and amenities of the units selected
 57 if the designation does not result in any [one] type of unit
 58 exceeding by more than 40 percent the total units of that type
 59 which are sold or rented under this Section, unless the applicant
 60 agrees otherwise. The notice required under subsection (b)(2)
 61 must state which MPDUs are to be offered for sale and which are
 62 to be offered for rent, and the Department, the Commission, and
 63 any designated agency or corporation may buy only units which
 64 are offered for sale and may lease only units which are offered
 65 for rent. The Department, the Commission, and any designated
 66 agency or corporation must decide whether it will exercise its
 67 option within 45 days after it receives the original notice.

68 **25A-9. Control of rents and resale prices; foreclosures.**

69 * * *

70 (b) *Resale requirements during the control period.*

- 71 (1) Any MPDU offered for resale during the control period must first
 72 be offered exclusively for 60 days to the Department and the
 73 Commission, in that order. The Department or the Commission
 74 may buy a unit when funds are available, ~~[[and]]~~ The Department
 75 may buy a unit when the Director finds that the Department's or a
 76 designated agency or corporation's buying and reselling the unit
 77 will increase opportunities for eligible persons to buy the unit. If
 78 ~~[[it]]~~ the Department or the Commission does not buy the unit,
 79 the Department must notify eligible persons ~~[[and the~~
 80 Commission]] of the availability of a resale MPDU. The unit
 81 may be sold through either of the following methods:

- 82 (A) The Department may by lottery establish a priority order
83 under which eligible persons who express interest in
84 buying the unit may buy it at the approved resale price.
- 85 (B) The Department may notify the MPDU owner that the
86 owner may sell the unit directly to any eligible person
87 under the resale provisions of this Chapter.
- 88 (2) A resale MPDU may be offered for sale to the general public
89 only after:
- 90 (A) the priority marketing period expires; and
91 (B) all eligible persons who express an interest in buying it
92 have been given an opportunity to do so.
- 93 (3) The Executive by regulation may adopt requirements for reselling
94 MPDUs. The regulations may require a seller to submit to the
95 Department for approval:
- 96 (A) a copy of the proposed sales contract, including a list and
97 the price of any personal property included in the sale;
98 (B) a signed copy of the settlement sheet; and
99 (C) an affidavit signed by the seller and buyer attesting to the
100 accuracy of all documents and conditions of the sale.
- 101 (4) A transfer of an MPDU does not comply with this Chapter until
102 all required documents and affidavits have been submitted to and
103 approved by the Department.
- 104 (c) *First sale after control period ends.*
- 105 (1) If an MPDU originally offered for sale or rent after March 21,
106 1989, is sold or resold after its control period ends, upon the first
107 sale of the unit the seller must pay to the Housing Initiative Fund
108 one-half of the excess of the total resale price over the sum of the

109 following:

110 (A) The original selling price;

111 (B) A percentage of the unit's original selling price equal to the
112 increase in the cost of living since the unit was first sold, as
113 determined by the Consumer Price Index;

114 (C) The fair market value of capital improvements made to the
115 unit between the date of original sale and the date of resale;
116 and

117 (D) A reasonable sales commission.

118 The Director must adjust the amount paid into the fund in each
119 case so that the seller retains at least \$10,000 of the excess of the
120 resale price over the sum of the items in (A)--(D).

121 (2) The Director must find that the price and terms of a sale covered
122 by subsection (c)(1) are bona fide and accurately reflect the entire
123 transaction between the parties so that the full amount required
124 under subsection (c)(1) is paid to the fund. When the Director
125 finds that the amount due the fund is accurate and the Department
126 of Finance receives the amount due, the Department must
127 terminate the MPDU controls and execute a release of the
128 restrictive covenants.

129 (3) The Department and the Commission, [has] in that order, [[have
130 the right for 30 days after the offer is made to match any bona
131 fide offer to]] may buy an MPDU the first time the MPDU is
132 offered for sale after 10 years after the original sale or rental, and
133 may resell the unit to an eligible person. A resale by the
134 Department or Commission starts a new control period.

135 (4) The Commission and any partnership in which the Commission

136 is a general partner need not pay into the Housing Initiative Fund
137 any portion of the resale price of any MPDU that it sells after 10
138 years after the original sale or rental.

139 * * *

140 (g) Bulk transfers. This section does not prohibit the bulk transfer or sale of
141 all or some of the sale or rental MPDUs in a subdivision within 20 years
142 after the original rental or offering for sale if the buyer is bound by all
143 covenants and controls on the MPDUs.

144 * * *

145 *Approved:*

146 Blair G. Ewing 11/8/01
Blair G. Ewing, President, County Council Date

147 *Approved:*

148 Douglas M. Duncan 11/20/01
Douglas M. Duncan, County Executive Date

149 *This is a correct copy of Council action.*

150 Mary A. Edgar 11/20/01
Mary A. Edgar, CMC, Clerk of the Council Date