

Introduced March 7, 2011  
Public Hearing March 21, 2011  
Council Action April 4, 2011  
Executive Action April 8, 2011  
Effective Date June 9, 2011

## County Council Of Howard County, Maryland

2011 Legislative Session

Legislative Day No. 3

### Bill No. 10 -2011

Introduced by: The Chairperson at the request of the County Executive  
Co-sponsored by Calvin Ball, Council Chairperson, and Greg Fox, Councilperson

AN ACT providing for certain market-based alternatives to the moderate income housing unit obligation imposed on developers; making certain corrections in the process for determining the price of a moderate income housing unit offered for sale; clarifying when certain factors related to price will be established; amending the time that certain interest rates shall be determined; setting the maximum amount of earnest money that may be collected from certain purchasers; removing obsolete references related to the eligibility to rent moderate income housing units; making certain technical corrections; and generally relating to Moderate Income Housing Units in Howard County.

Introduced and read first time March 7, 2011. Ordered posted and hearing scheduled.

By order Stephen LeGendre  
Stephen LeGendre, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on March 21, 2011.

By order Stephen LeGendre  
Stephen LeGendre, Administrator

This Bill was read the third time on April 4, 2011 and Passed , Passed with amendments , Failed .

By order Stephen LeGendre  
Stephen LeGendre, Administrator

Scaled with the County Seal and presented to the County Executive for approval this 6<sup>th</sup> day of April, 2011 at 12:00 a.m./p.m.

By order Stephen LeGendre  
Stephen LeGendre, Administrator

Approved Vetoed by the County Executive April 8, 2011

Ken Ulman  
Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be It Enacted by the County Council of Howard County, Maryland, that the**  
2 **Howard County Code is amended as follows:**

3  
4 1. **By amending subsection (d) of:**

5 **Title 13 – Housing and Community Development**

6 **Section 13.402 “Development procedures; moderate income housing unit**  
7 **agreement; alternative”**

8  
9 2. **By adding new section 13.402A “Market-based required alternatives to moderate**  
10 **income housing unit obligation” to:**

11 **Title 13 – Housing and Community Development**

12  
13 3. **By amending subsection (a) of:**

14 **Title 13 – Housing and Community Development**

15 **Section 13.403 “Prices for moderate income housing units offered for sale; rates**  
16 **for rental units”**

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18 4. **By amending subsection (a) of:**

19 **Title 13 – Housing and Community Development**

20 **Section 13.404 “Sale of moderate income housing unit”**

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22 5. **By amending subsections (a) through (e) of:**

23 **Title 13 – Housing and Community Development**

24 **Section 13.405 “Rental of moderate income housing units”**

25  
26 6. **By amending subsections (a) and (b) of:**

27 **Title 13 – Housing and Community Development**

28 **Section 13.406 “Certificate of eligibility”**

1                                   **Title 13. Housing and Community Development.**

2                                   **Subtitle 4. Moderate Income Housing Units.**

3  
4   **Section 13.402. Development procedures; moderate income housing unit**  
5 **agreement; alternative.**

6   (d) *Requirements Applicable to Moderate Income Housing Units.* Except as provided in  
7 subsections (e) and (f) of this section, AND EXCEPT AS PROVIDED IN SECTION 13.402A OF  
8 THIS SUBTITLE, a developer obligated to provide moderate income housing units in  
9 accordance with the zoning regulations as part of a development shall provide all of the  
10 units:

- 11           (1) On the site of the development project;
- 12           (2) In the same ratio of unit types as proposed for the development; and
- 13           (3) Evenly distributed within each phase of development.

14  
15   **SECTION 13.402A. MARKET-BASED REQUIRED ALTERNATIVES TO MODERATE INCOME**  
16 **HOUSING UNIT OBLIGATION.**

17   (A) *APPLICATION.* THIS SECTION SHALL APPLY WHEN THE BASE SALES PRICE FOR A  
18 MODERATE INCOME HOUSING UNIT, AS DETERMINED BY THE DEPARTMENT AT THE TIME THE  
19 SELLER OFFERS THE UNIT FOR SALE PURSUANT TO SECTION 13.404 OF THIS SUBTITLE, IS  
20 90% OR MORE OF THE MARKET PRICE. FOR PURPOSES OF THIS SECTION, MARKET PRICE IS  
21 THE NET PRICE OFFERED TO THE PUBLIC BY THE SELLER FOR A COMPARABLE UNIT WITHIN  
22 THE DEVELOPMENT. IN THIS INSTANCE, INSTEAD OF PROVIDING MODERATE INCOME  
23 HOUSING UNITS AS REQUIRED BY SECTION 13.402 OF THIS SUBTITLE, THE DEVELOPER  
24 SHALL PURSUE ONE OR A COMBINATION OF THE ALTERNATIVES SET FORTH IN SUBSECTION  
25 (B), (C), OR (D) OF THIS SECTION.

26   (B) ~~SCATTERED FORECLOSED UNITS~~ UNITS IN FORECLOSURE. THE DEVELOPER SHALL  
27 SUBSTITUTE UNITS BY PURCHASING, REHABILITATING, AND OFFERING FOR SALE EXISTING  
28 HOUSING UNITS THAT ARE IN FORECLOSURE AND ARE LOCATED THROUGHOUT THE COUNTY  
29 AS FOLLOWS:

- 30           (1) A SUBSTITUTE UNIT IS ELIGIBLE UNDER THIS OPTION IF IT:

- 1 (I) HAS HAD MORTGAGE OR TAX FORECLOSURE PROCEEDINGS  
 2 INITIATED;
- 3 (II) HAS NOT HAD A MORTGAGE OR TAX PAYMENT MADE FOR AT LEAST  
 4 90 DAYS; AND
- 5 (III) HAS BEEN OFFERED FOR SALE BY THE OWNER TO THE PUBLIC;
- 6 (2) THE DEPARTMENT MUST APPROVE EACH SUBSTITUTE UNIT BEFORE  
 7 PURCHASE BY THE ~~DEVELOPER;~~ DEVELOPER, AND SHALL ENSURE THAT THE  
 8 DEVELOPER PROVIDES THE SAME NUMBER OF BEDROOMS;
- 9 (3) THE REHABILITATION OF EACH SUBSTITUTE UNIT SHALL MEET THE  
 10 DEPARTMENT'S MINIMUM STANDARDS, AS DETERMINED BY REGULATION OF  
 11 THE DEPARTMENT;
- 12 (4) UPON COMPLETION OF REHABILITATION, THE DEPARTMENT MUST APPROVE  
 13 EACH COMPLETED UNIT;
- 14 (5) A DEVELOPER SHALL PURCHASE AND REHABILITATE THE UNIT AND REQUEST  
 15 A PRIORITY PERIOD, AS SET FORTH IN SECTION 13.404 OF THIS SUBTITLE,  
 16 WITHIN ONE YEAR OF THE DEVELOPER'S INITIAL NOTIFICATION OF SALE  
 17 UNDER SECTION 13.404;
- 18 ~~(5)~~(6) THE SALES PRICE FOR A SUBSTITUTE UNIT SHALL BE THE ~~LESSER OF~~ LOWEST  
 19 OF THE FOLLOWING:
- 20 (I) THE MODERATE INCOME HOUSING UNIT PRICE DETERMINED BY THE  
 21 DEPARTMENT AT THE TIME OF THE DEVELOPER'S REQUEST FOR A  
 22 PRIORITY PERIOD FOR THE SUBSTITUTE UNIT; ~~OR~~
- 23 (II) ~~THE~~90% OF THE APPRAISED VALUE OF THE SUBSTITUTE UNIT, AS  
 24 REHABILITATED; ~~AND~~ OR
- 25 (III) THE DEVELOPER'S ACTUAL COST OF PURCHASING, REHABILITATING,  
 26 AND SELLING THE SUBSTITUTE UNIT, INCLUDING CARRYING COSTS;  
 27 AND
- 28 ~~(6)~~ (7) A DEVELOPER SHALL PURCHASE SUBSTITUTE UNITS OF THE FOLLOWING  
 29 TYPES AND AT THE FOLLOWING RATIO:

TYPE OF REQUIRED MIHU:	TYPE OF SUBSTITUTE UNIT:	RATIO:
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APARTMENT	APARTMENT	1:1
APARTMENT	SINGLE FAMILY ATTACHED	3:2
APARTMENT	SINGLE FAMILY DETACHED	2:1
SINGLE FAMILY ATTACHED	APARTMENT	2:3
SINGLE FAMILY ATTACHED	SINGLE FAMILY ATTACHED	1:1
SINGLE FAMILY ATTACHED	SINGLE FAMILY DETACHED	3:2
SINGLE FAMILY DETACHED	APARTMENT	1:2
SINGLE FAMILY DETACHED	SINGLE FAMILY ATTACHED	2:3
SINGLE FAMILY DETACHED	SINGLE FAMILY DETACHED	1:1

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(C) *OFFER TO LOW-INCOME PURCHASERS.* THE DEVELOPER SHALL SUBSTITUTE UNITS BY OFFERING 1/3 OF THE MODERATE INCOME HOUSING UNITS REQUIRED UNDER THIS SUBTITLE TO ELIGIBLE LOW-INCOME PURCHASERS WHO SHALL HAVE AN ANNUAL HOUSEHOLD INCOME OF UP TO 60% OF THE MEDIAN INCOME. THE PURCHASE PRICE FOR THESE UNITS SHALL BE ESTABLISHED IN THE SAME MANNER AS SET FORTH IN SECTION 13.403 OF THIS SUBTITLE, EXCEPT THAT THE BASE PRICE SHALL BE AFFORDABLE TO A PURCHASER WITH A HOUSEHOLD INCOME EQUAL TO THE FOLLOWING PERCENTAGES OF MEDIAN INCOME, ADJUSTED BY FAMILY SIZE APPROPRIATE TO THE SIZE AND NUMBER OF BEDROOMS IN THE UNIT:

- (1) FIFTY-FIVE PERCENT FOR PROFFERED UNITS AND SINGLE-FAMILY HOMES;
- (2) FIFTY PERCENT FOR SEMI-DETACHED (DUPLEXES) AND SINGLE-FAMILY ATTACHED (TOWNHOMES); AND
- (3) FORTY-FIVE PERCENT FOR APARTMENTS (CONDOMINIUMS).

(D) *FEE-IN-LIEU.* THE DEVELOPER SHALL PAY A FEE-IN-LIEU TO THE DEPARTMENT FOR EACH MODERATE INCOME HOUSING UNIT REQUIRED BY THIS SUBTITLE AS FOLLOWS:

- (1) THE FEE-IN-LIEU SHALL BE CALCULATED AS THE DIFFERENCE BETWEEN THE PREVAILING MARKET PRICE FOR THE SAME UNIT TYPE AND THE SALE PRICE FOR THE MODERATE INCOME HOUSING UNIT PROVIDED, HOWEVER, THE FEE-

1 IN-LIEU SHALL NOT BE LESS THAN 7½% OF THE SALE PRICE FOR THE  
2 MODERATE INCOME HOUSING UNIT;

3 (2) THE PREVAILING MARKET PRICE SHALL BE DETERMINED BY A SURVEY OF  
4 SALES PRICES OF UNITS OF THE SAME TYPE SOLD IN THE COUNTY WITHIN  
5 THE PREVIOUS 12 MONTHS;

6 (3) SALES OF THE FOLLOWING UNITS SHALL BE EXCLUDED FROM THE SURVEY:

7 (i) TOWNHOUSES LESS THAN 1,200 SQUARE FEET AND MORE THAN  
8 2,000 SQUARE FEET;

9 (ii) SINGLE FAMILY DETACHED HOMES LESS THAN 1,500 SQUARE FEET  
10 AND MORE THAN 2,800 SQUARE FEET;

11 (iii) APARTMENTS LESS THAN 650 SQUARE FEET AND MORE THAN 1,300  
12 SQUARE FEET;

13 (iv) UNITS IN POOR CONDITION OR IN NEED OF SIGNIFICANT REPAIR OR  
14 RENOVATION; AND

15 (iv) THE 3 HIGHEST AND 3 LOWEST SALES PRICES; ~~AND~~

16 (4) A DEVELOPER SHALL PAY THE FEE-IN-LIEU BEFORE USE AND OCCUPANCY  
17 PERMITS MAY BE ISSUED FOR THE UNITS DESIGNATED AS MODERATE  
18 INCOME HOUSING UNITS BY THE DEVELOPMENT'S MODERATE INCOME  
19 HOUSING UNIT AGREEMENT; AND

20 (5) THE FEE-IN-LIEU COLLECTED BY THE DEPARTMENT SHALL BE USED FOR  
21 HOUSING PROGRAMS OPERATED BY THE DEPARTMENT.

22  
23 **Section 13.403. Prices for moderate income housing units offered for sale; rates for**  
24 **rental units.**

25 (a) *[[Initial]] BASE Prices for Moderate Income Housing Units Offered for Sale.* The *[[initial]]*  
26 *BASE* sale price for a moderate income housing unit shall be determined by the Housing and  
27 Community Development Board in accordance with this subsection.

28 (1) Twice a year, the Board shall establish the *[[initial]]* *BASE* sale price for  
29 each type of moderate income housing unit offered for sale.

30 (2) Before establishing the *[[initial]]* *BASE* sale price under this subsection, the  
31 Board shall *[[publish notice]]* PROVIDE INFORMATION CONCERNING *[[of]]*

the real property tax, insurance, and interest rate factors it proposes to use in establishing the [[initial sales]] BASE SALE price [[in two newspapers of general circulation in the County]] ON THE COUNTY'S WEBSITE .

(3) Before establishing the [[initial]] BASE sale price for moderate income housing units located in planned senior communities and age-restricted adult housing developments, the Board shall consult with the Office on Aging.

(4) The Department shall provide to the Board information concerning current real property tax and insurance rates.

(5) The [[initial]] BASE sale prices for moderate income housing units shall be based upon:

(i) A base size unit of the following types:

Type	Number of Bedrooms	Moderate Income Units-- Base Size (sq. ft.)
Single-family detached	2	1,540
	3	1,680
	4	1,820
Semi-detached (duplex) and single-family attached (townhouse)	2	1,500
	3	1,640
	4	1,780
Back-to-back single-family attached (townhouse)	2	1,400
	3	1,540
Apartments	1	750
	2	950
	3	1,100

(ii) Factors established [[twice a year]] ANNUALLY by the Board, for:

a. Real property taxes; AND

b. Insurance rates; [[and]]

(III) FACTORS ESTABLISHED TWICE A YEAR BY THE BOARD FOR

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- [[c.]] A. Interest rates on FHA 30-year mortgages; and
- B. FHA MORTGAGE INSURANCE PREMIUMS, AS DETERMINED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; AND
- [[[(iii)]] (IV) An average of the homeowners' association fees or condo fees charged for similar units in the market, [[as determined by the Department]] BASED ON AN ANNUAL SURVEY OF FEES.
- (6) The Department shall provide to the Board the price at which an eligible purchaser with a household income equal to the following percentages of median income, adjusted by family size appropriate to the size and number of bedrooms in the dwelling unit, can afford to purchase a dwelling unit:
  - (i) Seventy percent for proffered units and single-family homes;
  - (ii) Sixty-five percent for semi-detached (duplexes) and single-family attached (townhomes); and
  - (iii) Fifty percent for apartments (condominiums).
- (7) For the purposes of this subsection:
  - (i) A purchaser can afford to purchase a dwelling unit if the purchaser's monthly income would qualify the purchaser to obtain a 30-year fixed rate mortgage at the prevailing interest rate in an amount sufficient to pay 97 percent of the purchase price of the unit;
  - (ii) A purchaser's monthly income qualifies for a mortgage if the monthly payment required to pay (1) the monthly principal and interest of the mortgage loan, plus (2) the monthly payment of taxes and insurance on the property, calculated in accordance with the factors established by the Department under subsection (a) of this section, plus (3) the monthly payment of homeowners or condominium association fees, PLUS (4) THE MONTHLY PAYMENT OF THE FHA MORTGAGE INSURANCE PREMIUM, does not exceed 28 percent of the purchaser's monthly income; and



1 (iii) The prevailing interest rate is the prevailing mortgage interest rate  
2 for FHA-insured 30-year fixed-rate mortgages in the Baltimore  
3 Metropolitan Area WITH ZERO POINTS. [[: as published periodically  
4 by the Federal National Mortgage Association or other comparable  
5 publication as determined by the Department.]] THE DEPARTMENT  
6 SHALL CALCULATE THE PREVAILING INTEREST RATE BY SURVEYING,  
7 TWICE A YEAR, AT LEAST THREE MORTGAGE LENDERS AND TWO  
8 BANKS FOR AT LEAST THREE CONSECUTIVE BUSINESS DAYS.

9 (8) The Board shall determine the prevailing interest rate as of December  
10 1[[5]] and June 1[[5]] of each year.

11 (9) As determined by the regulations of the Department and subject to  
12 paragraph (11) of this subsection, an increase in the base sales price of a  
13 moderate income housing unit may be made for the following upgrades in  
14 size, design, or amenities provided that the Board determines that they are  
15 necessary to ensure the compatibility of the moderate income housing unit  
16 with the development's market rate units:

- 17 (i) Single-family attached (townhouse) units that are larger than the  
18 base size established by this section;
- 19 (ii) Additional bathrooms or powder rooms;
- 20 (iii) Finished basements;
- 21 (iv) Garages in single-family attached (townhouse) units; and
- 22 (v) Other upgrades in design or amenities that are necessary to ensure  
23 architectural compatibility with the development's market rate  
24 units.

25 (10) As determined by regulations of the Department and subject to paragraph  
26 (11) of this subsection, an increase in the base sales price of a moderate  
27 income housing unit may be made if the homeowners' association or  
28 condominium association fees applicable to the unit are less than the  
29 average of the homeowners' association fees or condominium fees charged  
30 for similar units in the market, as determined by the Department.

- 1 (11) Any increase in the base sales price of a moderate income housing unit  
2 may not exceed:
- 3 (i) Fifty percent of the base sales price for apartment (condominium)  
4 units;
  - 5 (ii) Twenty percent of the base sales price for semi-detached (duplex)  
6 and single-family attached (townhouse) units; and
  - 7 (iii) Ten percent of the base sales price for single-family detached and  
8 proffered units.
- 9 (12) As determined by regulations of the Department, a reduction in the base  
10 sales price of a moderate income housing unit shall be made:
- 11 (i) For units that are smaller than the base size established by this  
12 section;
  - 13 (ii) For single-family detached units, semi-detached (duplex) units,  
14 and single-family attached (townhouse) units without basements;  
15 or
  - 16 (iii) If the homeowners' association or condominium association fees  
17 applicable to the unit are more than the average of the  
18 homeowners' association fees or condominium fees charged for  
19 similar units in the market, as determined by the Department.
- 20

21 **Section 13.404. Sale of moderate income housing unit.**

22 **(a) *Initial Sale of Moderate Income Housing Unit--Priority Period.***

- 23 (1) (i) Except as provided in section 13.407 of this subtitle, the seller of a  
24 moderate income housing unit offered for sale shall offer the unit  
25 for initial sale for a 120-day priority period through the  
26 Department to an eligible purchaser.
- 27 (ii) During the priority period, the price for the moderate income  
28 housing unit shall not exceed the initial SALE price established for  
29 the unit under section 13.403 of this subtitle.
- 30 (2) (i) A seller shall notify the Department of the proposed offering and  
31 the proposed date on which the priority period will begin.

1 (ii) The notice shall set forth the number of units offered, the location  
2 of each unit, a description of the amenities offered in each unit, the  
3 sales price and information regarding any mortgage financing  
4 available to buyers.

5 (iii) The seller shall also provide a vicinity map of the offering, a copy  
6 of the approved subdivision or site development plan, and such  
7 other information as required by the Department.

8 (iv) If the Department determines that the notice is incomplete, the  
9 Department shall notify the seller within five business days of  
10 receipt of the notice. The seller shall submit a complete notice  
11 before the priority period begins.

12 (3) Within the priority period, the Department shall provide the seller with the  
13 name of an eligible purchaser for each unit.

14 (4) The seller shall make a good faith effort to enter into a contract with the  
15 eligible purchaser within the priority period. The contract shall allow the  
16 purchaser at least 60 days from the date of the notice provided in  
17 paragraph (3) of this subsection to obtain a financing commitment. The  
18 contract shall require the seller to make a good faith effort to complete  
19 construction of the moderate income housing unit within the time set forth  
20 in the purchaser's financing commitment.

21 (5) If the seller fails to make a good faith effort under paragraph (4) of this  
22 subsection, the settlement date shall be extended until ten days after the  
23 date construction is actually completed.

24 (6) If the eligible purchaser fails to comply with the conditions of the  
25 commitment for mortgage financing or fails to enter into a purchase  
26 contract, the Department may substitute another eligible purchaser.

27 (7) ANY EARNEST MONEY COLLECTED FROM AN ELIGIBLE PURCHASER MAY NOT  
28 EXCEED \$500.

29

30 **Section 13.405. Rental of moderate income housing units.**

1 (a) *Duration of Rental Restrictions.* Except as provided in subsection (f) of this section,  
2 the restrictions on the rental of moderate income housing units set forth in this subtitle  
3 shall apply to each rental moderate income housing unit development in perpetuity  
4 beginning on the date of initial offering as set forth in subsection (c) of this section.

5 (b) *Application of Rental Restrictions:*

6 (1) The owner of any rental development subject to this subtitle shall ensure  
7 that the number of moderate income housing units required under the  
8 approved final plan or site development plan are rented or available for  
9 rent as moderately priced dwelling units to [[holders of a certificate of  
10 eligibility]] PERSONS DETERMINED TO BE ELIGIBLE under section 13.406 of  
11 this subtitle.

12 (2) The owner is not required to permanently designate particular units as  
13 moderate income housing units in order to meet this requirement.

14 (c) *Rental During Priority Period:*

15 (1) A moderate income housing unit offered for rent must first be offered for a  
16 60-day priority period to [[a holder of a certificate of eligibility]] AN  
17 ELIGIBLE APPLICANT or to a designee. During the priority period, the  
18 moderate income housing unit shall be offered at a rent not to exceed the  
19 rent established for the unit under section 13.403 of this subtitle.

20 (2) (i) Before offering a moderate income housing unit for rent, the owner  
21 must notify the Department of the proposed offering and the  
22 proposed date on which the priority period will begin.

23 (ii) The notice must set forth the number of units offered, the location  
24 of each unit, the unit type, bedroom size and floor area of each  
25 unit, a description of the amenities offered in each unit and the  
26 rental rate.

27 (iii) The owner shall also provide a vicinity map of the offering, a copy  
28 of the approved subdivision or site development plan, and such  
29 other information as the Department finds necessary.

30 (iv) If the Department determines that the notice is incomplete, the  
31 Department shall notify the owner within five business days of

1 receipt of the notice. The owner shall submit a complete notice  
2 before the priority period may begin.

- 3 (3) The owner shall make a good faith effort to enter into a lease with [[a  
4 holder of a certificate of eligibility]] AN ELIGIBLE APPLICANT within the  
5 priority period.

6 (d) *Rental after Priority Period:*

- 7 (1) After the priority period expires, a unit in the development may be offered  
8 for rent to the general public without restriction as to rent if:

9 (i) [[A holder of a certificate of eligibility]] AN ELIGIBLE APPLICANT  
10 has not signed a lease agreement for the unit; and

11 (ii) As provided in the moderate income housing unit agreement, the  
12 required number of units in the development are rented or, at the  
13 time the priority period expired, were available for rent as  
14 moderate income housing units.

- 15 (2) If, because an owner rents one or more units under paragraph (1) of this  
16 subsection, the number of units in the development that are rented as  
17 moderate income housing units is below the number required in the  
18 moderate income housing unit agreement. The owner shall offer to rent the  
19 next available unit to ~~a holder of a certificate of eligibility~~, AN ELIGIBLE  
20 APPLICANT and shall continue to do so until:

21 (i) The number of rental units equals the number required under the  
22 agreement; or

23 (ii) The Department cannot provide the owner with the name of [[a  
24 holder of a certificate of eligibility]] AN ELIGIBLE APPLICANT to  
25 rent the unit.

26 (e) *Reports:*

- 27 (1) The owner ~~of~~ OF rental units shall submit a report to the Department, in a  
28 form prescribed by the Department, listing the occupants of moderate  
29 income housing units in the development and the rental rates charged, and  
30 certifying that the occupants [[initially held certificates of eligibility]] ARE  
31 ELIGIBLE UNDER SECTION 13.406.

1 (2) A report under this subsection shall be submitted monthly until the  
2 required number of moderate income housing units are occupied and  
3 annually thereafter.  
4

5 **Section 13.406. [[Certificate of eligibility]] ELIGIBILITY TO PURCHASE OR RENT.**

6 (a) *[[Certificate]] APPLICATION Required.* Unless the Department assigns authority  
7 under subsection 13.405(g) of this subtitle, to be eligible to purchase or rent a moderate  
8 income housing unit, an individual shall apply to the Department *[[for a certificate of*  
9 *eligibility]]*.

10 (b) *Qualifications.* An individual shall *[[receive a certificate of eligibility]]* BE ELIGIBLE  
11 TO PURCHASE OR RENT A MODERATE INCOME HOUSING UNIT if the individual has a  
12 verifiable source of income, agrees to occupy the moderate income housing unit as the  
13 principal place of residence, and:

14 (1) Has applied to purchase a moderate income housing unit and has an  
15 annual household income equal to or less than 80 percent of the median  
16 income; OR

17 (2) Has applied to rent a moderate income housing unit and has an annual  
18 household income equal to or less than 60 percent of the median income  
19 *[[; or*

20 (3) In a planned senior community or age-restricted adult housing  
21 development, has at least one household member who is 62 years of age or  
22 older]].  
23

24 ***Section 2. And Be It Further Enacted by the County Council of Howard County,***  
25 ***Maryland, that this Act shall apply to any moderate income housing unit for which a***  
26 ***priority period is in effect on or after the effective date of this Act.***

27  
28 ***Section 3. And Be It Further Enacted by the County Council of Howard County,***  
29 ***Maryland, that this Act shall become effective 61 days after its enactment.***

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on April 8, 2011.

  
\_\_\_\_\_  
Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on \_\_\_\_\_, 2011.

\_\_\_\_\_  
Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on \_\_\_\_\_, 2011.

\_\_\_\_\_  
Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on \_\_\_\_\_, 2011.

\_\_\_\_\_  
Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on \_\_\_\_\_, 2011.

\_\_\_\_\_  
Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on \_\_\_\_\_, 2011.

\_\_\_\_\_  
Stephen M. LeGendre, Administrator to the County Council

Amendment \_\_\_\_ to Council Bill No. 10-2011

BY: Chairperson at the request  
of the County Executive

Legislative Day No. \_\_\_\_  
Date: April 4, 2011

Amendment No. 1

*(This amendment clarifies when market-based alternatives will apply and makes certain technical corrections.)*

- 1 On page 2, in line 21, after the first "THE" insert "NET".
- 2
- 3 On page 12, in line 9, strike "a holder of a certificate of eligibility," and substitute "AN ELIGIBLE
- 4 APPLICANT".
- 5
- 6 On page 12, in line 17, strike "or" and substitute "OF".

ADOPTED April 4, 2011

FAILED \_\_\_\_\_

SIGNATURE Stephen M. Gendron



Amendment \_\_\_\_\_ to Council Bill No. 10-2011

BY: Chairperson at the request  
of the County Executive

Legislative Day No. \_\_\_\_\_  
Date: April 4, 2011

Amendment No. 2

*(This amendment corrects a section title, corrections numbering, and adds a basis for the sales price of a substitute unit.)*

1 On page 2, in line 26, strike "SCATTERED FORECLOSED UNITS" and substitute "UNITS IN  
2 FORECLOSURE".

3  
4 On page 3, in line 15, strike "(5)" and substitute "(6)" and strike "LESSER OF" and substitute  
5 "LOWEST OF THE FOLLOWING".

6  
7 On page 3, in line 18, strike "OR".

8  
9 On page 3, in line 19, strike the first "THE" and substitute "90% OF THE".

10  
11 On page 3, in line 20, strike "AND" and substitute "OR".

12  
13 On page 3, after line 20, insert:

14 "(III) THE DEVELOPER'S ACTUAL COST OF PURCHASING, REHABILITATING, AND  
15 SELLING THE SUBSTITUTE UNIT, INCLUDING CARRYING COSTS; AND".

16  
17 On page 3, in line 21, strike "(6)" and substitute "(7)".

ADOPTED April 4, 2011  
FAILED \_\_\_\_\_  
SIGNATURE Stephen M. Gordon

**Amendment 3  
Council Bill No. 10 - 2011**

BY: Jennifer Terrasa

Legislative Day No. 4  
Date: April 4, 2011

**Amendment No. 3**

*(This amendment requires the Department to ensure that the number of bedrooms provided as an alternative is the same.)*

1 On page 3, in line 5 strike "DEVELOPER;" and substitute "DEVELOPER, AND SHALL ENSURE  
2 THAT THE DEVELOPER PROVIDES THE SAME NUMBER OF BEDROOMS;".

3

RECEIVED April 4, 2011  
FAILED \_\_\_\_\_  
SIGNATURE Stephen M. Terrasa

Amendment 4 to Council Bill No. 10-2011

BY: Chairperson at the request  
of the County Executive

Legislative Day No. 4  
Date: April 4, 2011

Amendment No. 4

*(This amendment sets a minimum fee-in-lieu and clarifies that a fee-in-lieu shall be used for a certain purpose.)*

1 On page 4, in line 19, after "UNIT" insert "PROVIDED, HOWEVER, THE FEE-IN-LIEU SHALL NOT BE  
2 LESS THAN 7½% OF THE SALE PRICE FOR THE MODERATE INCOME HOUSING UNIT".

3

4 On page 5, in line 5, strike "AND".

5

6 On page 5, in line 9, strike the period after "AGREEMENT" and substitute ": AND".

7

8 On page 5, in line 10, insert:

9 "(5) THE FEE-IN-LIEU COLLECTED BY THE DEPARTMENT SHALL BE USED FOR HOUSING  
10 PROGRAMS OPERATED BY THE DEPARTMENT."

ADOPTED April 4, 2011  
FILED \_\_\_\_\_  
SIGNATURE [Signature]

Introduced \_\_\_\_\_  
Public Hearing \_\_\_\_\_  
Council Action \_\_\_\_\_  
Executive Action \_\_\_\_\_  
Effective Date \_\_\_\_\_

## County Council Of Howard County, Maryland

2011 Legislative Session

Legislative Day No. 3

Bill No. 10 -2011

Introduced by: The Chairperson at the request of the County Executive  
Co-sponsored by Calvin Ball, Council Chairperson, and Greg Fox, Councilperson

AN ACT providing for certain market-based alternatives to the moderate income housing unit obligation imposed on developers; making certain corrections in the process for determining the price of a moderate income housing unit offered for sale; clarifying when certain factors related to price will be established; amending the time that certain interest rates shall be determined; setting the maximum amount of earnest money that may be collected from certain purchasers; removing obsolete references related to the eligibility to rent moderate income housing units; making certain technical corrections; and generally relating to Moderate Income Housing Units in Howard County.

---

Introduced and read first time \_\_\_\_\_, 2011. Ordered posted and hearing scheduled.

By order \_\_\_\_\_  
Stephen LeGendre, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on \_\_\_\_\_, 2011.

By order \_\_\_\_\_  
Stephen LeGendre, Administrator

This Bill was read the third time on \_\_\_\_\_, 2011 and Passed \_\_\_\_, Passed with amendments \_\_\_\_, Failed \_\_\_\_.

By order \_\_\_\_\_  
Stephen LeGendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this \_\_\_\_ day of \_\_\_\_\_, 2011 at \_\_\_\_ a.m./p.m.

By order \_\_\_\_\_  
Stephen LeGendre, Administrator

Approved/Vetoed by the County Executive \_\_\_\_\_, 2011

\_\_\_\_\_  
Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 ***Section 1. Be It Enacted by the County Council of Howard County, Maryland, that the***  
2 ***Howard County Code is amended as follows:***

3

4 1. ***By amending subsection (d) of:***

5 ***Title 13 – Housing and Community Development***

6 ***Section 13.402 “Development procedures; moderate income housing unit***  
7 ***agreement; alternative”***

8

9 2. ***By adding new section 13.402A “Market-based required alternatives to moderate***  
10 ***income housing unit obligation” to:***

11 ***Title 13 – Housing and Community Development***

12

13 3. ***By amending subsection (a) of:***

14 ***Title 13 – Housing and Community Development***

15 ***Section 13.403 “Prices for moderate income housing units offered for sale; rates***  
16 ***for rental units”***

17

18 4. ***By amending subsection (a) of:***

19 ***Title 13 – Housing and Community Development***

20 ***Section 13.404 “Sale of moderate income housing unit”***

21

22 5. ***By amending subsections (a) through (e) of:***

23 ***Title 13 – Housing and Community Development***

24 ***Section 13.405 “Rental of moderate income housing units”***

25

26 6. ***By amending subsections (a) and (b) of:***

27 ***Title 13 – Housing and Community Development***

28 ***Section 13.406 “Certificate of eligibility”***

29

30

31

1 **Title 13. Housing and Community Development.**

2 **Subtitle 4. Moderate Income Housing Units.**

3  
4 **Section 13.402. Development procedures; moderate income housing unit**  
5 **agreement; alternative.**

6 (d) *Requirements Applicable to Moderate Income Housing Units.* Except as provided in  
7 subsections (e) and (f) of this section, AND EXCEPT AS PROVIDED IN SECTION 13.402A OF  
8 THIS SUBTITLE, a developer obligated to provide moderate income housing units in  
9 accordance with the zoning regulations as part of a development shall provide all of the  
10 units:

- 11 (1) On the site of the development project;
- 12 (2) In the same ratio of unit types as proposed for the development; and
- 13 (3) Evenly distributed within each phase of development.

14  
15 **SECTION 13.402A. MARKET-BASED REQUIRED ALTERNATIVES TO MODERATE INCOME**  
16 **HOUSING UNIT OBLIGATION.**

17 (A) *APPLICATION.* THIS SECTION SHALL APPLY WHEN THE BASE SALES PRICE FOR A  
18 MODERATE INCOME HOUSING UNIT, AS DETERMINED BY THE DEPARTMENT AT THE TIME THE  
19 SELLER OFFERS THE UNIT FOR SALE PURSUANT TO SECTION 13.404 OF THIS SUBTITLE, IS  
20 90% OR MORE OF THE MARKET PRICE. FOR PURPOSES OF THIS SECTION, MARKET PRICE IS  
21 THE PRICE OFFERED TO THE PUBLIC BY THE SELLER FOR A COMPARABLE UNIT WITHIN THE  
22 DEVELOPMENT. IN THIS INSTANCE, INSTEAD OF PROVIDING MODERATE INCOME HOUSING  
23 UNITS AS REQUIRED BY SECTION 13.402 OF THIS SUBTITLE, THE DEVELOPER SHALL PURSUE  
24 ONE OR A COMBINATION OF THE ALTERNATIVES SET FORTH IN SUBSECTION (B), (C), OR (D)  
25 OF THIS SECTION.

26 (B) *SCATTERED FORECLOSED UNITS.* THE DEVELOPER SHALL SUBSTITUTE UNITS BY  
27 PURCHASING, REHABILITATING, AND OFFERING FOR SALE EXISTING HOUSING UNITS THAT  
28 ARE IN FORECLOSURE AND ARE LOCATED THROUGHOUT THE COUNTY AS FOLLOWS:

- 29 (1) A SUBSTITUTE UNIT IS ELIGIBLE UNDER THIS OPTION IF IT:
  - 30 (I) HAS HAD MORTGAGE OR TAX FORECLOSURE PROCEEDINGS
  - 31 INITIATED;

- 1 (ii) HAS NOT HAD A MORTGAGE OR TAX PAYMENT MADE FOR AT LEAST  
 2 90 DAYS; AND
- 3 (iii) HAS BEEN OFFERED FOR SALE BY THE OWNER TO THE PUBLIC;
- 4 (2) THE DEPARTMENT MUST APPROVE EACH SUBSTITUTE UNIT BEFORE  
 5 PURCHASE BY THE DEVELOPER;
- 6 (3) THE REHABILITATION OF EACH SUBSTITUTE UNIT SHALL MEET THE  
 7 DEPARTMENT'S MINIMUM STANDARDS, AS DETERMINED BY REGULATION OF  
 8 THE DEPARTMENT;
- 9 (4) UPON COMPLETION OF REHABILITATION, THE DEPARTMENT MUST APPROVE  
 10 EACH COMPLETED UNIT;
- 11 (5) A DEVELOPER SHALL PURCHASE AND REHABILITATE THE UNIT AND REQUEST  
 12 A PRIORITY PERIOD, AS SET FORTH IN SECTION 13.404 OF THIS SUBTITLE,  
 13 WITHIN ONE YEAR OF THE DEVELOPER'S INITIAL NOTIFICATION OF SALE  
 14 UNDER SECTION 13.404;
- 15 (5) THE SALES PRICE FOR A SUBSTITUTE UNIT SHALL BE THE LESSER OF:
- 16 (i) THE MODERATE INCOME HOUSING UNIT PRICE DETERMINED BY THE  
 17 DEPARTMENT AT THE TIME OF THE DEVELOPER'S REQUEST FOR A  
 18 PRIORITY PERIOD FOR THE SUBSTITUTE UNIT; OR
- 19 (ii) THE APPRAISED VALUE OF THE SUBSTITUTE UNIT, AS  
 20 REHABILITATED; AND
- 21 (6) A DEVELOPER SHALL PURCHASE SUBSTITUTE UNITS OF THE FOLLOWING  
 22 TYPES AND AT THE FOLLOWING RATIO:

TYPE OF REQUIRED MIHU:	TYPE OF SUBSTITUTE UNIT:	RATIO:
APARTMENT	APARTMENT	1:1
APARTMENT	SINGLE FAMILY ATTACHED	3:2
APARTMENT	SINGLE FAMILY DETACHED	2:1
SINGLE FAMILY ATTACHED	APARTMENT	2:3
SINGLE FAMILY ATTACHED	SINGLE FAMILY ATTACHED	1:1
SINGLE FAMILY ATTACHED	SINGLE FAMILY DETACHED	3:2

SINGLE FAMILY DETACHED	APARTMENT	1:2
SINGLE FAMILY DETACHED	SINGLE FAMILY ATTACHED	2:3
SINGLE FAMILY DETACHED	SINGLE FAMILY DETACHED	1:1

1  
2 (c) *OFFER TO LOW-INCOME PURCHASERS.* THE DEVELOPER SHALL SUBSTITUTE UNITS BY  
3 OFFERING 1/3 OF THE MODERATE INCOME HOUSING UNITS REQUIRED UNDER THIS SUBTITLE  
4 TO ELIGIBLE LOW-INCOME PURCHASERS WHO SHALL HAVE AN ANNUAL HOUSEHOLD  
5 INCOME OF UP TO 60% OF THE MEDIAN INCOME. THE PURCHASE PRICE FOR THESE UNITS  
6 SHALL BE ESTABLISHED IN THE SAME MANNER AS SET FORTH IN SECTION 13.403 OF THIS  
7 SUBTITLE, EXCEPT THAT THE BASE PRICE SHALL BE AFFORDABLE TO A PURCHASER WITH A  
8 HOUSEHOLD INCOME EQUAL TO THE FOLLOWING PERCENTAGES OF MEDIAN INCOME,  
9 ADJUSTED BY FAMILY SIZE APPROPRIATE TO THE SIZE AND NUMBER OF BEDROOMS IN THE  
10 UNIT:

- 11 (1) FIFTY-FIVE PERCENT FOR PROFFERED UNITS AND SINGLE-FAMILY HOMES;
- 12 (2) FIFTY PERCENT FOR SEMI-DETACHED (DUPLEXES) AND SINGLE-FAMILY  
13 ATTACHED (TOWNHOMES); AND
- 14 (3) FORTY-FIVE PERCENT FOR APARTMENTS (CONDOMINIUMS).

15 (d) *FEE-IN-LIEU.* THE DEVELOPER SHALL PAY A FEE-IN-LIEU TO THE DEPARTMENT FOR  
16 EACH MODERATE INCOME HOUSING UNIT REQUIRED BY THIS SUBTITLE AS FOLLOWS:

- 17 (1) THE FEE-IN-LIEU SHALL BE CALCULATED AS THE DIFFERENCE BETWEEN THE  
18 PREVAILING MARKET PRICE FOR THE SAME UNIT TYPE AND THE SALE PRICE  
19 FOR THE MODERATE INCOME HOUSING UNIT;
- 20 (2) THE PREVAILING MARKET PRICE SHALL BE DETERMINED BY A SURVEY OF  
21 SALES PRICES OF UNITS OF THE SAME TYPE SOLD IN THE COUNTY WITHIN  
22 THE PREVIOUS 12 MONTHS;
- 23 (3) SALES OF THE FOLLOWING UNITS SHALL BE EXCLUDED FROM THE SURVEY:  
24 (i) TOWNHOUSES LESS THAN 1,200 SQUARE FEET AND MORE THAN  
25 2,000 SQUARE FEET;
- 26 (ii) SINGLE FAMILY DETACHED HOMES LESS THAN 1,500 SQUARE FEET  
27 AND MORE THAN 2,800 SQUARE FEET;



1 (III) APARTMENTS LESS THAN 650 SQUARE FEET AND MORE THAN 1,300  
2 SQUARE FEET;

3 (IV) UNITS IN POOR CONDITION OR IN NEED OF SIGNIFICANT REPAIR OR  
4 RENOVATION; AND

5 (IV) THE 3 HIGHEST AND 3 LOWEST SALES PRICES; AND

6 (4) A DEVELOPER SHALL PAY THE FEE-IN-LIEU BEFORE USE AND OCCUPANCY  
7 PERMITS MAY BE ISSUED FOR THE UNITS DESIGNATED AS MODERATE  
8 INCOME HOUSING UNITS BY THE DEVELOPMENT'S MODERATE INCOME  
9 HOUSING UNIT AGREEMENT.

10  
11 **Section 13.403. Prices for moderate income housing units offered for sale; rates for**  
12 **rental units.**

13 (a) *[[Initial]] BASE Prices for Moderate Income Housing Units Offered for Sale.* The *[[initial]]*  
14 BASE sale price for a moderate income housing unit shall be determined by the Housing and  
15 Community Development Board in accordance with this subsection.

16 (1) Twice a year, the Board shall establish the *[[initial]]* BASE sale price for  
17 each type of moderate income housing unit offered for sale.

18 (2) Before establishing the *[[initial]]* BASE sale price under this subsection, the  
19 Board shall *[[publish notice]]* PROVIDE INFORMATION CONCERNING *[[of]]*  
20 the real property tax, insurance, and interest rate factors it proposes to use  
21 in establishing the *[[initial sales]]* BASE SALE price *[[in two newspapers of*  
22 *general circulation in the County]]* ON THE COUNTY'S WEBSITE .

23 (3) Before establishing the *[[initial]]* BASE sale price for moderate income  
24 housing units located in planned senior communities and age-restricted  
25 adult housing developments, the Board shall consult with the Office on  
26 Aging.

27 (4) The Department shall provide to the Board information concerning current  
28 real property tax and insurance rates.

29 (5) The *[[initial]]* BASE sale prices for moderate income housing units shall be  
30 based upon:

31 (i) A base size unit of the following types:

Type	Number of Bedrooms	Moderate Income Units-- Base Size (sq. ft.)
Single-family detached	2	1,540
	3	1,680
	4	1,820
Semi-detached (duplex) and single-family attached (townhouse)	2	1,500
	3	1,640
	4	1,780
Back-to-back single-family attached (townhouse)	2	1,400
	3	1,540
Apartments	1	750
	2	950
	3	1,100

- 1                   (ii) Factors established [[twice a year]] ANNUALLY by the Board, for:
- 2                   a. Real property taxes; AND
- 3                   b. Insurance rates; [[and]]
- 4                   (III) FACTORS ESTABLISHED TWICE A YEAR BY THE BOARD FOR
- 5                   [[c.] A. Interest rates on FHA 30-year mortgages; and
- 6                   B. FHA MORTGAGE INSURANCE PREMIUMS, AS DETERMINED BY
- 7                   THE UNITED STATES DEPARTMENT OF HOUSING AND
- 8                   URBAN DEVELOPMENT; AND
- 9                   [[[(iii)]] (IV) An average of the homeowners' association fees or condo fees
- 10                   charged for similar units in the market, [[as determined by the
- 11                   Department]] BASED ON AN ANNUAL SURVEY OF FEES.
- 12                  (6) The Department shall provide to the Board the price at which an eligible
- 13                   purchaser with a household income equal to the following percentages of
- 14                   median income, adjusted by family size appropriate to the size and number
- 15                   of bedrooms in the dwelling unit, can afford to purchase a dwelling unit:
- 16                   (i) Seventy percent for proffered units and single-family homes;

- 1 (ii) Sixty-five percent for semi-detached (duplexes) and single-family  
2 attached (townhomes); and  
3 (iii) Fifty percent for apartments (condominiums).

4 (7) For the purposes of this subsection:

5 (i) A purchaser can afford to purchase a dwelling unit if the  
6 purchaser's monthly income would qualify the purchaser to obtain  
7 a 30-year fixed rate mortgage at the prevailing interest rate in an  
8 amount sufficient to pay 97 percent of the purchase price of the  
9 unit;

10 (ii) A purchaser's monthly income qualifies for a mortgage if the  
11 monthly payment required to pay (1) the monthly principal and  
12 interest of the mortgage loan, plus (2) the monthly payment of  
13 taxes and insurance on the property, calculated in accordance with  
14 the factors established by the Department under subsection (a) of  
15 this section, plus (3) the monthly payment of homeowners or  
16 condominium association fees, PLUS (4) THE MONTHLY PAYMENT  
17 OF THE FHA MORTGAGE INSURANCE PREMIUM, does not exceed 28  
18 percent of the purchaser's monthly income; and

19 (iii) The prevailing interest rate is the prevailing mortgage interest rate  
20 for FHA-insured 30-year fixed-rate mortgages in the Baltimore  
21 Metropolitan Area WITH ZERO POINTS. [[: as published periodically  
22 by the Federal National Mortgage Association or other comparable  
23 publication as determined by the Department.]] THE DEPARTMENT  
24 SHALL CALCULATE THE PREVAILING INTEREST RATE BY SURVEYING,  
25 TWICE A YEAR, AT LEAST THREE MORTGAGE LENDERS AND TWO  
26 BANKS FOR AT LEAST THREE CONSECUTIVE BUSINESS DAYS.

27 (8) The Board shall determine the prevailing interest rate as of December  
28 1[[5]] and June 1[[5]] of each year.

29 (9) As determined by the regulations of the Department and subject to  
30 paragraph (11) of this subsection, an increase in the base sales price of a  
31 moderate income housing unit may be made for the following upgrades in

1 size, design, or amenities provided that the Board determines that they are  
2 necessary to ensure the compatibility of the moderate income housing unit  
3 with the development's market rate units:

- 4 (i) Single-family attached (townhouse) units that are larger than the  
5 base size established by this section;
- 6 (ii) Additional bathrooms or powder rooms;
- 7 (iii) Finished basements;
- 8 (iv) Garages in single-family attached (townhouse) units; and
- 9 (v) Other upgrades in design or amenities that are necessary to ensure  
10 architectural compatibility with the development's market rate  
11 units.

12 (10) As determined by regulations of the Department and subject to paragraph  
13 (11) of this subsection, an increase in the base sales price of a moderate  
14 income housing unit may be made if the homeowners' association or  
15 condominium association fees applicable to the unit are less than the  
16 average of the homeowners' association fees or condominium fees charged  
17 for similar units in the market, as determined by the Department.

18 (11) Any increase in the base sales price of a moderate income housing unit  
19 may not exceed:

- 20 (i) Fifty percent of the base sales price for apartment (condominium)  
21 units;
- 22 (ii) Twenty percent of the base sales price for semi-detached (duplex)  
23 and single-family attached (townhouse) units; and
- 24 (iii) Ten percent of the base sales price for single-family detached and  
25 proffered units.

26 (12) As determined by regulations of the Department, a reduction in the base  
27 sales price of a moderate income housing unit shall be made:

- 28 (i) For units that are smaller than the base size established by this  
29 section;

- 1 (ii) For single-family detached units, semi-detached (duplex) units,  
2 and single-family attached (townhouse) units without basements;  
3 or  
4 (iii) If the homeowners' association or condominium association fees  
5 applicable to the unit are more than the average of the  
6 homeowners' association fees or condominium fees charged for  
7 similar units in the market, as determined by the Department.  
8

9 **Section 13.404. Sale of moderate income housing unit.**

10 (a) *Initial Sale of Moderate Income Housing Unit--Priority Period.*

- 11 (1) (i) Except as provided in section 13.407 of this subtitle, the seller of a  
12 moderate income housing unit offered for sale shall offer the unit  
13 for initial sale for a 120-day priority period through the  
14 Department to an eligible purchaser.  
15 (ii) During the priority period, the price for the moderate income  
16 housing unit shall not exceed the initial SALE price established for  
17 the unit under section 13.403 of this subtitle.  
18 (2) (i) A seller shall notify the Department of the proposed offering and  
19 the proposed date on which the priority period will begin.  
20 (ii) The notice shall set forth the number of units offered, the location  
21 of each unit, a description of the amenities offered in each unit, the  
22 sales price and information regarding any mortgage financing  
23 available to buyers.  
24 (iii) The seller shall also provide a vicinity map of the offering, a copy  
25 of the approved subdivision or site development plan, and such  
26 other information as required by the Department.  
27 (iv) If the Department determines that the notice is incomplete, the  
28 Department shall notify the seller within five business days of  
29 receipt of the notice. The seller shall submit a complete notice  
30 before the priority period begins.

- 1 (3) Within the priority period, the Department shall provide the seller with the  
2 name of an eligible purchaser for each unit.
- 3 (4) The seller shall make a good faith effort to enter into a contract with the  
4 eligible purchaser within the priority period. The contract shall allow the  
5 purchaser at least 60 days from the date of the notice provided in  
6 paragraph (3) of this subsection to obtain a financing commitment. The  
7 contract shall require the seller to make a good faith effort to complete  
8 construction of the moderate income housing unit within the time set forth  
9 in the purchaser's financing commitment.
- 10 (5) If the seller fails to make a good faith effort under paragraph (4) of this  
11 subsection, the settlement date shall be extended until ten days after the  
12 date construction is actually completed.
- 13 (6) If the eligible purchaser fails to comply with the conditions of the  
14 commitment for mortgage financing or fails to enter into a purchase  
15 contract, the Department may substitute another eligible purchaser.
- 16 (7) ANY EARNEST MONEY COLLECTED FROM AN ELIGIBLE PURCHASER MAY NOT  
17 EXCEED \$500.
- 18

19 **Section 13.405. Rental of moderate income housing units.**

20 (a) *Duration of Rental Restrictions.* Except as provided in subsection (f) of this section,  
21 the restrictions on the rental of moderate income housing units set forth in this subtitle  
22 shall apply to each rental moderate income housing unit development in perpetuity  
23 beginning on the date of initial offering as set forth in subsection (c) of this section.

24 (b) *Application of Rental Restrictions:*

- 25 (1) The owner of any rental development subject to this subtitle shall ensure  
26 that the number of moderate income housing units required under the  
27 approved final plan or site development plan are rented or available for  
28 rent as moderately priced dwelling units to [[holders of a certificate of  
29 eligibility]] PERSONS DETERMINED TO BE ELIGIBLE under section 13.406 of  
30 this subtitle.

1 (2) The owner is not required to permanently designate particular units as  
2 moderate income housing units in order to meet this requirement.

3 (c) *Rental During Priority Period:*

4 (1) A moderate income housing unit offered for rent must first be offered for a  
5 60-day priority period to [[a holder of a certificate of eligibility]] AN  
6 ELIGIBLE APPLICANT or to a designee. During the priority period, the  
7 moderate income housing unit shall be offered at a rent not to exceed the  
8 rent established for the unit under section 13.403 of this subtitle.

9 (2) (i) Before offering a moderate income housing unit for rent, the owner  
10 must notify the Department of the proposed offering and the  
11 proposed date on which the priority period will begin.

12 (ii) The notice must set forth the number of units offered, the location  
13 of each unit, the unit type, bedroom size and floor area of each  
14 unit, a description of the amenities offered in each unit and the  
15 rental rate.

16 (iii) The owner shall also provide a vicinity map of the offering, a copy  
17 of the approved subdivision or site development plan, and such  
18 other information as the Department finds necessary.

19 (iv) If the Department determines that the notice is incomplete, the  
20 Department shall notify the owner within five business days of  
21 receipt of the notice. The owner shall submit a complete notice  
22 before the priority period may begin.

23 (3) The owner shall make a good faith effort to enter into a lease with [[a  
24 holder of a certificate of eligibility]] AN ELIGIBLE APPLICANT within the  
25 priority period.

26 (d) *Rental after Priority Period:*

27 (1) After the priority period expires, a unit in the development may be offered  
28 for rent to the general public without restriction as to rent if:

29 (i) [[A holder of a certificate of eligibility]] AN ELIGIBLE APPLICANT  
30 has not signed a lease agreement for the unit; and

1 (ii) As provided in the moderate income housing unit agreement, the  
2 required number of units in the development are rented or, at the  
3 time the priority period expired, were available for rent as  
4 moderate income housing units.

5 (2) If, because an owner rents one or more units under paragraph (1) of this  
6 subsection, the number of units in the development that are rented as  
7 moderate income housing units is below the number required in the  
8 moderate income housing unit agreement. The owner shall offer to rent the  
9 next available unit to a holder of a certificate of eligibility, and shall  
10 continue to do so until:

11 (i) The number of rental units equals the number required under the  
12 agreement; or

13 (ii) The Department cannot provide the owner with the name of [[a  
14 holder of a certificate of eligibility]] AN ELIGIBLE APPLICANT to  
15 rent the unit.

16 (e) *Reports:*

17 (1) The owner or rental units shall submit a report to the Department, in a  
18 form prescribed by the Department, listing the occupants of moderate  
19 income housing units in the development and the rental rates charged, and  
20 certifying that the occupants [[initially held certificates of eligibility]] ARE  
21 ELIGIBLE UNDER SECTION 13.406.

22 (2) A report under this subsection shall be submitted monthly until the  
23 required number of moderate income housing units are occupied and  
24 annually thereafter.  
25

26 **Section 13.406. [[Certificate of eligibility]] ELIGIBILITY TO PURCHASE OR RENT.**

27 (a) *[[Certificate]] APPLICATION Required.* Unless the Department assigns authority  
28 under subsection 13.405(g) of this subtitle, to be eligible to purchase or rent a moderate  
29 income housing unit, an individual shall apply to the Department [[for a certificate of  
30 eligibility]].



1 (b) *Qualifications.* An individual shall [[receive a certificate of eligibility]] BE ELIGIBLE  
2 TO PURCHASE OR RENT A MODERATE INCOME HOUSING UNIT if the individual has a  
3 verifiable source of income, agrees to occupy the moderate income housing unit as the  
4 principal place of residence, and:

5 (1) Has applied to purchase a moderate income housing unit and has an  
6 annual household income equal to or less than 80 percent of the median  
7 income; OR

8 (2) Has applied to rent a moderate income housing unit and has an annual  
9 household income equal to or less than 60 percent of the median income  
10 [[; or

11 (3) In a planned senior community or age-restricted adult housing  
12 development, has at least one household member who is 62 years of age or  
13 older]].

14  
15 *Section 2. And Be It Further Enacted by the County Council of Howard County,*  
16 *Maryland, that this Act shall apply to any moderate income housing unit for which a*  
17 *priority period is in effect on or after the effective date of this Act.*

18  
19 *Section 3. And Be It Further Enacted by the County Council of Howard County,*  
20 *Maryland, that this Act shall become effective 61 days after its enactment.*