

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2019 Legislative Session

Legislative Day No. 12

Bill No. 50-2019

Introduced by: The Chairperson at the request of the County Executive

AN ACT defining certain terms such as disability income, disability income housing unit, low income and low income housing unit; providing for Disability Income Housing Units as an optional method of providing moderate income housing units in certain instances; providing for certain numbers of units when Disability Income Housing Units are used; adding a unit type and size for studio units that are used as a Moderate Income Housing Unit offered for sale or rent; amending certain prohibited transfers to allow that certain types of entities that are formed to receive low income housing tax credits may use optional or alternative methods; amending the fee in lieu to clarify the basis for the computation of square footage used to determine the rate; clarifying when the fee in lieu will be paid; providing that the fee in lieu can be used for grants to the Housing Commission or local nonprofits; amending how many days the Department shall use when calculating the prevailing interest rate; providing that the Department shall establish rental rates for Disability Incoming Housing Units that shall be based on monthly income; clarifying that sales prices shall be based on certain square footage; establishing the pricing for the subsequent sale of previously occupied Moderate Income Housing Units, under certain conditions; providing for certain fines and penalties; adding certain qualifications to be eligible to purchase or rent; including employees of the Housing Commission as those who will receive certain priority; providing that purchasers who do not reside in their unit shall be subject to certain penalties; requiring that Regulations contain certain criteria; making certain technical corrections; and generally related to moderate income housing in Howard County.

Introduced and read first time _____, 2019. Ordered posted and hearing scheduled.

By order _____
Diane Schwartz Jones, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to the Charter, the Bill was read for a second time at a public hearing on _____, 2019.

By order _____
Diane Schwartz Jones, Administrator

This Bill was read the third time on _____, 2019 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Diane Schwartz Jones, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___ day of _____, 2019 at ___ a.m./p.m.

By order _____
Diane Schwartz Jones, Administrator

Approved/Vetoed by the County Executive _____, 2019

Calvin Ball, 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 Howard
2 County Code is amended as follows:

3
4 *By amending Title 13 “Housing and Community Development”*
5 *Section 13.401 “Definitions.”*

6
7 *By amending Title 13 “Housing and Community Development”*
8 *Section 13.402 “Development procedures; moderate income housing unit agreement;*
9 *alternative.”*

10 *Subsections (b), (e) and (l)*

11
12 *By amending Title 13 “Housing and Community Development”*
13 *Section 13.402C “Alternatives to moderate income housing unit obligation in certain*
14 *zones.”*

15 *Subsection (e)*

16
17 *By amending Title 13 “Housing and Community Development”*
18 *Section 13.403 “Prices for moderate income housing units offered for sale; rates for*
19 *rental units.”*

20
21 *By amending Title 13 “Housing and Community Development”*
22 *13.404 “Sale of moderate income housing unit.”*

23 *Subsections (a) and (d)*

24
25 *By adding subsection (e) to Title 13 “Housing and Community Development”*
26 *13.404 “Sale of moderate income housing unit.”*

27
28 *By amending Title 13 “Housing and Community Development”*
29 *13.405 “Rental of moderate income housing units.”*

30 *Subsection (b)*

1 *By amending Title 13 “Housing and Community Development”*

2 *13.406 “Eligibility to purchase or rent.”*

3 *Subsections (b), (c) and (e)*

4
5 *By adding subsection (g) to Title 13 “Housing and Community Development”*

6 *13.406 “Eligibility to purchase or rent.”*

7
8 *By amending Title 13 “Housing and Community Development”*

9 *13.408 “Foreclosures; waiver”*

10 *Subsection (a) and (b)*

11
12 *By amending Title 13 “Housing and Community Development”*

13 *13.409 “Regulations.”*

14
15 **Title 13. Housing and community development.**

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

17
18 **Section 13.401. Definitions.**

19 (a) *In General.* In this subtitle, the following words have the meanings indicated:

20 (b) *Commission* means the Howard County Housing Commission.

21 (c) *Department* means the Howard County Department of Housing and Community Development.

22 (d) *Designee* means the Howard County Housing Commission, a nonprofit corporation, or a quasi-
23 public housing development organization designated by the Department as eligible to operate and
24 maintain moderate income housing units on a long-term basis.

25 (e) *Director* means the Director of the Department of Housing and Community Development.

26 (F) *DISABILITY INCOME* MEANS AN ANNUAL HOUSEHOLD INCOME OF UP TO 20 PERCENT OF THE
27 MEDIAN INCOME IN HOWARD COUNTY.

28 (G) *DISABILITY INCOME HOUSING UNIT (DIHU)* MEANS A DWELLING UNIT OFFERED FOR RENT TO AN
29 ADULT PERSON WITH A DISABILITY RECEIVING A CASH PAYMENT OF SUPPLEMENTAL SECURITY
30 INCOME (SSI) OR SOCIAL SECURITY DISABILITY INCOME (SSDI).

31 ([f]H) *Dwelling unit* has the meaning stated in the Howard County Zoning Regulations.

1 ([[g]]I) *Eligible purchaser* means a holder of a certificate of eligibility under section 13.406 of
2 this subtitle who has been prequalified by the Department to obtain a mortgage in an amount
3 sufficient to enable the individual to purchase a moderate income housing unit. ELIGIBLE
4 PURCHASERS CANNOT OWN ANY OTHER REAL PROPERTY AT THE TIME THEY ARE AWARDED A
5 MODERATE-INCOME HOUSING UNIT.

6 ([[h]]J) *First-time home buyer* means an individual who, during the three years before receiving a
7 certificate of eligibility:

- 8 (1) Has not owned any property used or usable as a residence; or
- 9 (2) Has owned a personal residence but, because of the separation or divorce of the joint
10 tenants or the death of one of the joint tenants, needs to purchase a personal residence
11 without the former joint tenant.

12 ([[i]]K) *Initial sale price* means the price set by the Housing and Community Development Board
13 under section 13.403 of this subtitle for the first sale of a type of moderate income housing unit.

14 (L) *LOW INCOME* MEANS AN ANNUAL HOUSEHOLD INCOME OF UP TO 60 PERCENT OF THE MEDIAN
15 INCOME IN HOWARD COUNTY.

16 (M) *LOW INCOME HOUSING UNIT* MEANS A DWELLING UNIT OFFERED FOR SALE OR RENT TO
17 HOUSEHOLDS WITH LOW INCOMES.

18 ([[j]]N) *Median income* means the median annual income of Howard County as determined by the
19 U.S. Census Bureau.

20 ([[k]]O) *Moderate income* means an annual household income of up to 80 percent of the median
21 income in Howard County.

22 ([[l]]P) *Moderate income housing unit (MIHU)* means a dwelling unit offered for sale or rent to
23 households with moderate incomes.

24 ([[m]]Q) *Moderate income housing unit offered for sale* means a unit that is built on a subdivided
25 lot or subject to a condominium regime, as provided in a moderate income housing unit agreement
26 under subsection 13.402(b) of this subtitle.

27 ([[n]]R) *Proffered unit* means a moderate income housing unit in a development for which the
28 provision of moderate income housing is proffered by the petitioner and made a condition of
29 approval in a preliminary development plan approved by the Zoning Board.

30 ([[o]]S) *Rehabilitated existing moderate income housing unit* means an existing residential housing
31 unit that has been determined by the Department of Housing and Community Development to have

1 met the specified eligibility criteria and rehabilitation requirements for such units as provided in
2 this subtitle and that is subject to and bound to comply with all of the requirements in this subtitle
3 applicable to newly built moderate income housing units.

4 ([[p]]T)*Rental unit* means a moderate income housing unit that is not a moderate income housing
5 unit offered for sale.

6
7 **Section 13.402. Development procedures; moderate income housing unit agreement;**
8 **alternative.**

9 (b) *Moderate Income Housing Unit Agreement.* The moderate income housing unit agreement
10 under this section shall be in a form prescribed by the Department and shall include:

- 11 (1) A statement of the number of moderate income housing units required under the zoning
12 regulations;
- 13 (2) A requirement that the developer comply with the minimum specifications for moderate
14 income housing units established by the Department;
- 15 (3) A plan for construction of moderate income housing units offered for sale and rental units,
16 which shall, to the extent practicable, [[taking into account]] CONSIDER current market
17 conditions, the needs of eligible purchasers, and planning considerations, require that
18 each phase of the development contain its proportionate share of the total number of
19 moderate income housing units required under the approved final plan or site
20 development plan; and
- 21 (4) A statement of how moderate income housing units will be provided that shall include
22 the number of units, types of units, and location of units.

23 (e) *Optional Methods:*

- 24 (1) A developer required to provide moderate income housing units under the zoning
25 regulations may request permission to provide the required units:
 - 26 (i) At a different location; [[or]]
 - 27 (ii) As a different ratio of unit types[.];OR
 - 28 (III) AS DISABILITY INCOME HOUSING UNITS.
- 29 (2) A developer may use an optional method under this subsection if the Director, upon
30 recommendation from the Housing and Community Development Board and in

1 consultation with the Director of Planning and Zoning and the Director of Community
2 Resources and Services, determines that:

- 3 (i) a. The number of moderate income housing units to be constructed in the
4 development will render the development economically unfeasible; or
- 5 b. The development proposes an indivisible package of services and facilities to all
6 residents that would cost the moderate income housing unit owners so much that
7 the units would be rendered unaffordable to eligible purchasers; and
- 8 (ii) The optional method results in geographic distribution of moderate income housing
9 units throughout the County.

10 (3) A DEVELOPER MAY USE DISABILITY INCOME HOUSING UNITS AS AN OPTIONAL METHOD
11 UNDER THIS SUBSECTION IF THE DIRECTOR, IN CONSULTATION WITH THE DIRECTOR OF
12 COMMUNITY RESOURCES AND SERVICES AND THE DIRECTOR OF PLANNING AND ZONING,
13 DETERMINES THAT THERE IS A NEED FOR THE PROPOSED DISABILITY INCOME HOUSING
14 UNITS.

15 ([[3]]4) A developer who uses an optional method of providing moderate income housing
16 units in accordance with paragraph (1) of this subsection shall calculate the number of
17 units to be provided as set forth below:

- 18 (i) For every one moderate income single-family detached housing unit required by the
19 zoning regulations, the requirement shall be increased by the multiplier in the
20 following chart:
21

Type of Unit	On-site	Off-site
Single Family Detached	Not Applicable	1.5 Moderate Income HOUSING Units
Single Family Attached	1.5 Moderate Income HOUSING Units	1.75 Moderate Income HOUSING Units
Apartment	1.75 Moderate Income HOUSING Units	2.0 Moderate Income HOUSING Units

- 22 (ii) For every one single-family attached moderate income housing unit required by
23 the zoning regulations, the requirement shall be increased by the multiplier in the
24 following chart:

Type of Unit	On-site	Off-site
Single Family Attached	[[Not Applicable]] 0.33 DISABILITY INCOME HOUSING UNITS	1.5 Moderate Income HOUSING Units
Apartment	1.5 Moderate Income HOUSING Units OR 0.4 DISABILITY INCOME HOUSING UNITS	1.75 Moderate Income HOUSING Units

1 (iii) For every one moderate income apartment required by the zoning regulations, the
2 requirement shall be modified by the multiplier in the following chart:

Type of Unit	On-site	Off-site, Apartment Units
Apartment	[[Not Applicable]]0.4 DISABILITY INCOME HOUSING UNIT	1.5 Moderate Income HOUSING Units
[[Single Family Attached]]	[[Not Applicable]]	[[.67 Moderate income Units]]

3
4 (l) *Prohibited Transfers*. A developer using an optional or alternative method of compliance may
5 not provide the required moderate income housing units on property:

- 6 (1) Wholly owned by the Howard County Housing Commission;
7 (2) [[Owned by a limited partnership or limited liability company formed solely for the
8 purpose of obtaining the benefit of low income housing tax credits under section 42 of
9 the Internal Revenue Code and in which the Commission is the general partner or
10 managing member;
11 (3)]]Owned by the County; or
12 ([[4]]3) In a census tract block group where the poverty level is ten percent or greater
13 according to the most recent census.

14
15 **Section 13.402C. - Alternatives to moderate income housing unit obligation in certain**
16 **zones.**

17 (e) *Fee-In-Lieu*. The developer may pay a fee-in-lieu to the Department for each unit in the
18 development or portion of the development that is not providing MIHUs onsite:

- 19 (1) [[The fee-in-lieu for Fiscal Year 2014 shall be \$2.00 per square foot of residential space
20 for each unit in the development as calculated for the building excise tax, section 20,
21 subtitle 5 of the Howard County Code of Maryland]] THE FEE-IN-LIEU SHALL BE BASED

1 ON THE SQUARE FOOTAGE CALCULATED BY THE COUNTY FOR PURPOSES OF DETERMINING A
2 UNIT'S BUILDING EXCISE TAX WHEN APPLYING FOR A BUILDING PERMIT FOR THE
3 DEVELOPMENT;

- 4 (2) The fee-in-lieu shall be set yearly by Council resolution based upon the percentage of
5 increase in the ENR Construction Cost Index for the Baltimore Region as reported in
6 ENR, Engineering News Record;
- 7 (3) The fee-in-lieu shall be published on the County's website together with the base sales
8 prices and rents for moderate income housing units;
- 9 (4) If the developer chooses to provide a portion of the required MIHUs on site, the fee shall
10 be prorated accordingly.
- 11 (5) Except as provided in paragraph (a) of this section, a developer may not pay a fee in lieu
12 of a single-family attached or apartment moderate income housing unit except in an age-
13 restricted adult housing or planned senior community;
- 14 (6) A developer shall pay the fee-in-lieu [[before a use and occupancy permit may be issued
15 for any unit in the development]] FOR EACH UNIT WHEN A BUILDING PERMIT APPLICATION
16 IS SUBMITTED;
- 17 (7) The fee-in-lieu collected by the Department shall be used for the following:
- 18 (i) The Settlement Downpayment Loan Program;
- 19 (ii) The Rehabilitation Loan Program;
- 20 (iii) Grants to other County entities, THE HOWARD COUNTY HOUSING COMMISSION OR
21 LOCAL NON-PROFITS for rental housing subsidies, the purchase and rehabilitation of
22 existing properties for sale or rent to low or moderate income households, emergency
23 eviction support, or other housing opportunities for low and moderate income
24 households; and
- 25 (8) By February 1 of each year, the Department shall provide a detailed annual report to the
26 Council of each collection and expenditure of all fee-in-lieu funds for the prior calendar
27 year.
- 28 (9) In census tract block group where the poverty level is ten percent or greater according to
29 the most recent census, the fee-in-lieu collected by the Department shall be used only for
30 the Settlement Downpayment Loan Program and the Rehabilitation Loan Program.

31

1 **Section 13.403. - Prices for moderate income housing units offered for sale; rates for rental**
 2 **units.**

3 (a) *Base Prices for Moderate Income Housing Units Offered for Sale.* The base sale price for a
 4 moderate income housing unit shall be determined by the Housing and Community
 5 Development Board in accordance with this subsection.

6 (1) Twice a year, the Board shall establish the base sale price for each type of moderate
 7 income housing unit offered for sale.

8 (2) Before establishing the base sale price under this subsection, the Board shall provide
 9 information concerning the real property tax, insurance, and interest rate factors it
 10 proposes to use in establishing the base sale price on the County's website.

11 (3) Before establishing the base sale price for moderate income housing units located in
 12 planned senior communities and age-restricted adult housing developments, the Board
 13 shall consult with the Office on Aging and Independence.

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

16 (5) The base sale prices for moderate income housing units shall be based upon:

17 (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
STUDIO	0	600

- 1 (ii) Factors established annually by the Board, for:
- 2 a. Real property taxes; and
- 3 b. Insurance rates;
- 4 (iii) Factors established twice a year by the Board for:
- 5 a. Interest rates on FHA 30-year mortgages; and
- 6 b. FHA mortgage insurance premiums, as determined by the United States
- 7 Department of Housing and Urban Development; and
- 8 (iv) An average of the homeowners' association fees or condo fees charged for similar
- 9 units in the market, based on an annual survey of fees.
- 10 (6) The Department shall provide to the Board the price at which an eligible purchaser with
- 11 a household income equal to the following percentages of median income, adjusted by
- 12 family size appropriate to the size and number of bedrooms in the dwelling unit, can
- 13 afford to purchase a dwelling unit:
- 14 (i) Seventy percent for proffered units and single-family homes;
- 15 (ii) Sixty-five percent for semi-detached (duplexes) and single-family attached
- 16 (townhomes); and
- 17 (iii) Fifty percent for apartments (condominiums).
- 18 (7) For the purposes of this subsection:
- 19 (i) A purchaser can afford to purchase a dwelling unit if the purchaser's monthly income
- 20 would qualify the purchaser to obtain a 30-year fixed rate mortgage at the prevailing
- 21 interest rate in an amount sufficient to pay 97 percent of the purchase price of the
- 22 unit;
- 23 (ii) A purchaser's monthly income qualifies for a mortgage if the monthly payment
- 24 required to pay (1) the monthly principal and interest of the mortgage loan, plus (2)
- 25 the monthly payment of taxes and insurance on the property, calculated in accordance
- 26 with the factors established by the Department under subsection (a) of this section,
- 27 plus (3) the monthly payment of homeowners or condominium association fees, plus

- 1 (4) the monthly payment of the FHA mortgage insurance premium, does not exceed
2 28 percent of the purchaser's monthly income; and
- 3 (iii) The prevailing interest rate is the prevailing mortgage interest rate for FHA-insured
4 30-year fixed-rate mortgages in the Baltimore Metropolitan Area with zero points.
5 The Department shall calculate the prevailing interest rate by surveying, twice a year,
6 at least three mortgage lenders and two banks for THE PREVIOUS BUSINESS DAY [[at
7 least three consecutive business days]].
- 8 (8) The Board shall determine the prevailing interest rate as of December 1 and June 1 of
9 each year.
- 10 (9) As determined by the regulations of the Department and subject to paragraph (11) of this
11 subsection, an increase in the base sales price of a moderate income housing unit may be
12 made for the following upgrades in size, design, or amenities provided that the Board
13 determines that they are necessary to ensure the compatibility of the moderate income
14 housing unit with the development's market rate units AND SIZE SHALL BE THE SQUARE
15 FOOTAGE CALCULATED BY THE COUNTY FOR PURPOSES OF DETERMINING A UNIT'S
16 BUILDING EXCISE TAX WHEN APPLYING FOR A BUILDING PERMIT:
- 17 (i) Single-family attached (townhouse OR CONDOMINIUM) units that are larger than the
18 base size established by this section;
- 19 (ii) Additional bathrooms or powder rooms; AND
- 20 [(iii) Finished basements;
- 21 (iv) Garages in single-family attached (townhouse) units; and
- 22 (v)] (III) Other upgrades in design or amenities that are necessary to ensure architectural
23 compatibility with the development's market rate [[units]]UNITS.
- 24 (10) As determined by regulations of the Department and subject to paragraph (11) of this
25 subsection, an increase in the base sales price of a moderate income housing unit may be
26 made if the homeowners' association or condominium association fees applicable to the
27 unit are less than the average of the homeowners' association fees or condominium fees
28 charged for similar units in the market, as determined by the Department.
- 29 (11) Any increase in the base sales price of a moderate income housing unit may not exceed:
- 30 (i) Fifty percent of the base sales price for apartment (condominium) units;

1 (ii) Twenty percent of the base sales price for semi-detached (duplex) and single-family
2 attached (townhouse) units; and

3 (iii) Ten percent of the base sales price for single-family detached and proffered units.

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

6 (i) For units that are smaller than the base size established by this section; OR

7 (ii) [[For single-family detached units, semi-detached (duplex) units, and single-family
8 attached (townhouse) units without basements; or

9 (iii)] If the homeowners' association or condominium association fees applicable to the
10 unit are more than the average of the homeowners' association fees or condominium
11 fees charged for similar units in the market, as determined by the Department.

12 (b) *Rates for Rental Units:*

13 (1) The Department shall establish maximum rates for rental units, by bedroom size, that are
14 equal to 30 percent of the monthly income of a household whose annual income does not
15 exceed 60 percent of the median income.

16 (2) THE DEPARTMENT SHALL ESTABLISH MAXIMUM RATES FOR DIHU RENTAL UNITS THAT ARE
17 EQUAL TO 30 PERCENT OF THE MONTHLY INCOME OF A HOUSEHOLD COMPRISED OF AN
18 ADULT PERSON WITH A DISABILITY WHOSE ANNUAL INCOME DOES NOT EXCEED 20 PERCENT
19 OF THE MEDIAN INCOME.

20 ([[2]]3) The maximum rental rates shall include an allowance for utilities paid by the tenant.
21 The allowance shall be calculated by the Department based upon the average utility costs
22 prevailing for similar sized units in Howard County. If required by the lease, all utility
23 costs, including those in excess of the allowance, shall be paid by the tenant.
24

25 **Section 13.404. - Sale of moderate income housing unit.**

26 (a) *Initial Sale of Moderate Income Housing Unit—Priority Period.*

27 (1) (i) Except as provided in section 13.407 of this subtitle, the seller of a moderate income
28 housing unit offered for sale shall offer the unit for initial sale for a 120-day priority
29 period through the Department to an eligible purchaser.

30 (ii) During the priority period, the price for the moderate income housing unit shall not
31 exceed the initial price established for the unit under section 13.403 of this subtitle.

1 (III) THE SALES PRICE SHALL BE BASED ON THE SQUARE FOOTAGE AS CALCULATED BY THE
2 COUNTY FOR PURPOSES OF DETERMINING A UNIT'S BUILDING EXCISE TAX WHEN
3 APPLYING FOR A BUILDING PERMIT.

4 (2) (i) A seller shall notify the Department of the proposed offering and the proposed date on
5 which the priority period will begin.

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

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

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

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

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

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

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

29 (7) Any earnest money collected from an eligible purchaser may not exceed \$500.00.

30 (d) *Subsequent Sale of Moderate Income Housing Unit AFTER PRIORITY PERIOD.* A subsequent sale
31 of a moderate income housing unit AFTER THE PRIORITY PERIOD shall be:

- 1 (1) Offered through the Department to an eligible purchaser at the sale price established under
- 2 section 13.403 of this subtitle;
- 3 (2) Subject to the covenants required under subsection 13.402(c) of this subtitle; and
- 4 (3) Subject to regulations adopted by the Department under this subtitle.

5 (E) *SUBSEQUENT SALE OF A PREVIOUSLY OCCUPIED MODERATE INCOME HOUSING UNIT.* THE
6 SUBSEQUENT SALE OF A PREVIOUSLY OCCUPIED MODERATE INCOME HOUSING UNTIL SHALL BE
7 OFFERED FOR RESALE:

- 8 (1) SUBJECT TO THE SAME CONDITIONS NOTED IN SUBSECTION (D) OF THIS SECTION;
- 9 (2) SUBJECT TO A RESALE PRICE LIMIT, AS STATED IN THE PROGRAM REGULATIONS AS
10 FOLLOWS:
 - 11 (I) START WITH THE ORIGINAL PURCHASE PRICE FOR WHICH THE OWNER PURCHASED THE
12 PROPERTY ACCORDING TO THE PURCHASE CONTRACT;
 - 13 (II) EACH YEAR MULTIPLY THE ORIGINAL PURCHASE PRICE BY THE PERCENTAGE CHANGE IN
14 THE MOST RECENT CPI-U OR IN THE MOST RECENT MEDIAN INCOME WHICHEVER IS LESS-
15 -UP TO A MAXIMUM INCREASE FOR ANY GIVEN YEAR OF 3.5 PERCENT OR A MINIMUM
16 INCREASE FOR ANY GIVEN YEAR OF 1.0 PERCENT;
 - 17 (III) EACH YEAR ADD THE PRODUCT OF THE MULTIPLICATION ABOVE TO THE ORIGINAL
18 PURCHASE PRICE;
 - 19 (IV) ADD THE COST OF ELIGIBLE CAPITAL IMPROVEMENTS THAT HAVE BEEN APPROVED BY
20 THE COUNTY UP TO THE TIME OF TRANSFER; AND
 - 21 (V) DEDUCT THE AMOUNT OF ANY EXCESSIVE DAMAGE ASSESSMENT.

22
23 **Section 13.405. - Rental of moderate income housing units.**

24 (b) *Application of Rental Restrictions:*

- 25 (1) The owner of any rental development subject to this subtitle shall ensure that the number
26 of moderate income housing units required under the approved final plan or site
27 development plan are rented or available for rent as moderately priced dwelling units to
28 persons determined to be eligible under section 13.406 of this subtitle.
- 29 (2) The owner is not required to permanently designate particular units as moderate income
30 housing units in order to meet this requirement.

1 (3) THE OWNER OF ANY RENTAL DEVELOPMENT THAT DOES NOT COMPLY WITH THE
2 RESTRICTIONS REQUIRED BY THIS SUBTITLE MAY BE SUBJECT TO FINES AND PENALTIES, AS
3 STATED IN THE PROGRAM REGULATIONS.
4

5 **Section 13.406. - Eligibility to purchase or rent.**

6 (b) *Qualifications.* An individual shall be eligible to purchase or rent a moderate income housing
7 unit if the individual has a verifiable source of income, agrees to occupy the moderate income
8 housing unit as the principal place of residence, and:

9 (1) Has applied to purchase a moderate income housing unit and has an annual household
10 income equal to or less than 80 percent of the median income; [[or]]

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

13 (3) DOES NOT OWN ANY REAL PROPERTY AT THE TIME OF THE AWARD; OR

14 (4) DOES NOT HAVE SUFFICIENT ASSETS TO PURCHASE A MARKET RATE UNIT.

15 (c) *Prospective Purchasers—Notification.* An individual seeking to purchase a moderate income
16 housing unit shall apply to the Department for placement [[on the waiting list]]IN A DATABASE
17 maintained by the Department. The Department shall maintain the [[waiting list]] DATABASE by
18 date of application and household size. When a moderate income housing unit becomes available,
19 the Department shall notify each eligible purchaser identified in accordance with subsection (f) of
20 this section of the availability.

21 (e) *Same—Selection by Department:*

22 (1) The Department shall select an eligible purchaser to purchase each available moderate
23 income housing unit.

24 (2) In selecting an eligible purchaser the Department shall give priority to those:

25 (i) With the lowest incomes who qualify for mortgage financing available at the time;

26 (ii) Who are first-time home buyers applying to purchase a moderate income unit;

27 (iii)Who reside and work in Howard County;

28 (iv)Who work in Howard County;

29 (v) Who reside in Howard County;

30 (vi)Who are employed by:

31 a. Howard County Government;

- b. Board of Education of Howard County;
- c. Howard Community College;
- d. Howard County Library Board of Trustees;
- e. Howard County Economic Development Authority;
- f. Howard County Health Department;
- g. THE HOWARD COUNTY HOUSING COMMISSION;
- [[g]]h. Howard County Department of Social Services; or
- [[h]]i. A nonprofit entity that is:

- 1. Organized or operated for the purpose of providing health and human services to any group of persons residing in Howard County; and
- 2. Designated as an entity eligible to receive this preference by Department regulations;

- (vii) Who are displaced, within one year prior to application for a certificate of eligibility, by the closure of a mobile home park adjacent to Route 1;
- (viii) Who are participants in the Federal Family Self-Sufficiency Program authorized by 42 U.S.C. 1437U and 24 C.F.R. Part 984 as administered by the Commission; and
- (ix) Who have been [[on the waiting list]] IN THE DATABASE for the longest duration.

(G) PURCHASERS WHO DO NOT LIVE IN THE MODERATE INCOME HOUSING UNIT AS THEIR PRIMARY RESIDENCE MAY BE SUBJECT TO PENALTIES, INCLUDING BUT NOT LIMITED TO RESELLING THE UNIT BACK THROUGH THE PROGRAM TO AN ELIGIBLE PURCHASER, AS STATED IN THE PROGRAM REGULATIONS.

Section 13.408. - Foreclosures; waiver.

(a) Notice to Department. Before a moderate income housing [[unit]] DEVELOPMENT is sold in foreclosure proceedings, the person authorized to make the sale shall notify the Department by certified mail of the time, place, and terms of the sale. The notice shall be [[set]] SENT not later than [[ten]] TWENTY days before the date of the sale.

(b) *Restrictions Terminate after Sale.* If a moderate income housing unit is sold in foreclosure proceedings, the restrictions of this subtitle shall terminate and, if notice was received under subsection (a) of this section, the County Executive shall execute a release of the covenants on the

1 property. Proceeds of the sale of the moderate income housing unit are paid to the County as
2 follows:

- 3 (1) For a unit originally offered for sale, all proceeds in excess of the initial sale price at the
4 time of the foreclosure sale, plus the reasonable and actual costs and fees of foreclosure;
5 and
- 6 (2) For a DEVELOPMENT OF RENTAL UNITS [[rental unit]], all proceeds attributable to [[the]]A
7 unit that are in excess of the initial sale price that would have been permitted if the unit had
8 been originally offered for sale, as determined by the Department, plus the reasonable and
9 actual costs and fees of foreclosure attributable to the rental unit.

10

11 **Section 13.409. - Regulations.**

12 The Department shall adopt, in accordance with the Administrative Procedure Act, the
13 regulations necessary to implement and administer this subtitle, including regulations to establish:

- 14 (1) The form of a co-ownership agreement;
- 15 (2) Criteria for determining the eligibility of prospective purchasers or renters of moderate
16 income housing units;
- 17 (3) A process for the selection and notification of eligible purchasers;
- 18 (4) Standard terms of moderate income housing unit agreements;
- 19 (5) Criteria for determining the resale price of a moderate income housing unit and procedures
20 for the subsequent resale;
- 21 (6) CRITERIA FOR ENFORCEMENT OF THE OWNER OCCUPANCY REQUIREMENT, INCLUDING
22 PENALTIES, FOR MODERATE INCOME HOUSING UNITS;
- 23 (7) CRITERIA FOR ENFORCEMENT, INCLUDING PENALTIES AND FINES FOR NON-COMPLIANCE, OF
24 THE MODERATE INCOME HOUSING UNIT RENTAL REQUIREMENTS.
- 25 (8) CRITERIA FOR CAPITAL IMPROVEMENTS AND EXCESSIVE DAMAGE FOR MODERATE INCOME
26 HOUSING UNITS;
- 27 [[(6)]](9) Criteria for determining designees;
- 28 [[(7)]](10) Minimum specifications for moderate income housing units;
- 29 [[(8)]](11) Criteria governing allocation of units if more than one designee applies to exercise
30 an option under subsection 13.407(c) of this subtitle;

1 [[9]](12) A co-ownership program for designees in accordance with subsection 13.407(j) of
2 this subtitle;

3 [[10]](13) Criteria for the sale or rental of a moderate income housing unit under section
4 13.407 of this subtitle;

5 [[11]](14) Criteria for administering the moderate income housing unit community
6 revitalization program; and

7 [[12]](15) Criteria for subsidy funds created by Continuing Care Retirement Communities
8 under subsection [[13.402(1)]] 13.406A of this subtitle.

9

10 ***Section 2. And Be It Further Enacted*** by the County Council of Howard County, Maryland that
11 *this Act shall become effective 61 days after its enactment.*