

Introduced 2-3-2021
Public Hearing 2-16-2021
Council Action 3-1-2021
Executive Action 3-9-2021
Effective Date 5-2-2021

County Council of Howard County, Maryland

2021 Legislative Session

Legislative Day No. 3

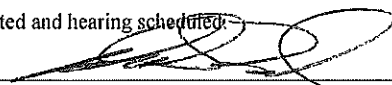
Bill No. 12 -2021

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

AN ACT amending the term of board and commission members to be consistent with recently enacted amendments to Section 404 of the Howard County Charter; and generally related to boards and commissions.

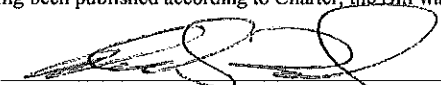
Introduced and read first time February 3, 2021. Ordered posted and hearing scheduled.

By order


Theo Wimberly, Acting Administrator

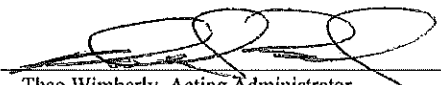
Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on February 16, 2021.

By order


Theo Wimberly, Acting Administrator


This Bill was read the third time on March 1, 2021 and Passed X, Passed with amendments _____, Failed _____.

By order



Theo Wimberly, Acting Administrator

Sealed with the County Seal and presented to the County Executive for approval this 2nd day of March, 2021 at 12:15 pm a.m./p.m.

By order


Theo Wimberly, Acting Administrator

Approved Vetoed by the County Executive March 2, 2021


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 **WHEREAS**, an amendment to Section 404 of the County Charter, effective on or
2 about December 3, 2020, shortened the term for members of most citizen boards and
3 commissions from five to three years and this change needs to be reflected in various
4 places in our County Code.

5
6 **NOW THEREFORE,**

7
8 *Section 1. Be It Enacted by the County Council of Howard County, Maryland, that the*
9 *Howard County Code is amended as follows:*

10
11 *By amending:*

12 *Title 6, County Executive and Executive Branch*
13 *Subsection (b) of Section 6.300 "Boards and Commissions in general"*

14
15 *Title 12, Health and Social Services*
16 *Subsection (c) of Section 12.701 "Membership"*

17
18 *Title 12, Health and Social Services*
19 *Section 12.1702 "Terms of Membership"*

20
21 *Title 12, Health and Social Services*
22 *Subsection (e) of Section 12.301 "Membership of the Board; appointment"*

23
24 **Title 6. County Executive and the Executive Branch.**

25 **Subtitle 3. Boards and Commissions.**

26
27 **Sec. 6.300. - Boards and Commissions in general.**

28 (b) A Board or Commission shall consist of at least five residents of Howard County
29 who shall serve:

- 30 (1) Overlapping terms of ~~[[five]]~~THREE years; or
31 (2) Until a successor is confirmed.

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Title 12. Health and Social Services.

Subtitle 7. Women's Issues.

Sec. 12.701. - Membership.

(c) Qualifications:

- (1) All members shall be residents of Howard County.
- (2) Members shall be broadly representative of the citizens of Howard County and shall have an active interest in the purposes of the Commission.
- (3) There may be an ex officio nonvoting member selected by the Chairperson of the Human Rights Commission from the current membership of that Commission to serve as liaison between the Human Rights Commission and the Commission for Women.
- (4) One member shall be a high school student appointed by March 15 of each year to serve a term from July 1 through June 30, except that in 2009 the student member shall be appointed by June 1, 2009.
- (5) All members, except for the student member, shall serve a ~~[[five]]~~THREE-year term.
- (6) No member shall serve more than two consecutive terms.
- (7) The Commission's student member appointee may observe the current student member during the remainder of that student member's term.

Title 12. Health and Social Services.

Subtitle 17. Board to Promote Self Sufficiency.

Sec. 12.1702. - Terms of membership.

Appointed members of the Board shall serve overlapping terms of ~~[[five]]~~THREE years or until a successor is confirmed as provided in section 6.300 of this Code.

Title 12. Health and Social Services.

Subtitle 3. Local Children's Board.

1

2 **Sec. 12.301. - Membership of the Board; appointment.**

3 (e) Terms of Members of the Board:

4 (1) Except for youth members, the members of the Board shall serve staggered terms
5 of ~~[[five]]~~THREE years. Youth members shall serve staggered terms of two years.

6 (2) Vacancies on the Board shall be filled in the same manner as the original
7 appointment or for the unexpired term.

8 (3) At the end of the term a member of the Board, the member continues to serve
9 until a successor is appointed.

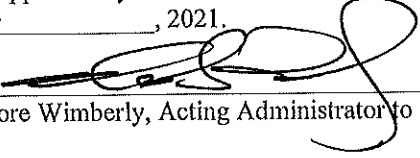
10 (4) A member of the Board who is appointed to complete an unexpired term serves
11 only for the rest of that term, unless the member is reappointed.

12

13 *Section 2. And Be It Further Enacted by the County Council of Howard County,*
14 *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 March 2, 2021.



Theodore Wimberly, Acting 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 _____, 2021.

Theodore Wimberly, Acting 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 _____, 2021.

Theodore Wimberly, Acting 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 _____, 2021.

Theodore Wimberly, Acting 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 _____, 2021.

Theodore Wimberly, Acting 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 _____, 2021.

Theodore Wimberly, Acting Administrator to the County Council

**Office of the County Auditor
Auditor's Analysis**

Council Bill No. 12-2021

Introduced: February 3, 2021

Auditor: Maya Cameron

Fiscal Impact:

There is no fiscal impact to this legislation.

Changing the term of board and commission members does not have an impact on County revenues or expenses.

Purpose:

The purpose of this legislation is to amend the term of board and commission members from five years to three to be consistent with the amendments to Section 404 of the Howard County Charter.

Boards and commissions affected by this term change include:

- Boards and commissions updated by reference to Sec 6.300(b)(1):
 - Equal Business Opportunity Commission (Sec 4.600)
 - Commission for Transitioning Students with Disabilities (Sec 12.2000)
- Commission for Women (Sec 12.701(c)(5))
- Board to Promote Self Sufficiency (Sec 12.1702)
- Local Children's Board (Sec 13.301(e)(1))

Other Comments:

None.

February 16, 2021
The Honorable Liz Walsh, Chairperson
Howard County Council
George Howard Building, 3430 Court House Drive
Ellicott City, MD 21043

RE: CB 12-2020, Landlord-Tenant Relations

Chairperson Jung and Members of the Council,

On behalf of Howard County Indivisible, an organization committed to fairness, tolerance, inclusion, and democracy, we write to offer our opposition to provisions in CB 14-2021 related to changes in Title 17 Subtitle 10. The proposed legislation does not balance the interests of landlord and tenants. Rather, it tips the scales against those seeking to lease housing in Howard County. Therefore, it undermines the County's commitment to inclusive communities.

Our objections are as follows:

- The proposed changes to Sec. 17-1008(a)(2)(ii) strips the tenant of the right to contract to rent a particular unit. The amendment removes the requirement that a landlord show the dwelling unit to be leased before the lease is executed, and eliminates the tenant's right to void the contract before occupancy if they discover the unit to be damaged. The tenant's only recourse to reject a damaged unit would be to 'select a different unit' if damage is found. This is not a real remedy because there may be no 'different unit' available to rent from the same landlord that is available at the same time, for the same price, and in undamaged condition. The amendment gives the tenant no opportunity to void the lease if they discover the unit is not what they bargained for.
- The proposed changes to Sec. 17.1008(a)(2)(iii) and Sec. 17.1009(b)(1) would allow a landlord who has not yet obtained a rental housing license 7 days before occupancy to give the tenant evidence of the application in lieu of a copy of the license. This means a landlord could contract to rent a unit and allow the tenant to move in before the landlord even has license to rent the property, and the tenant would never know it.
- The proposed changes to Sec. 17.1008(a)(2)(iv) would require a landlord to provide the tenant with a copy of the Office's Landlord Tenant Assistance publication in languages other than English only if the tenant requests it. There is no legitimate policy reason to limit Spanish-speaking residents' access to vital information. Both Spanish and English language copies should always be provided.
- The proposed change to Sec. 17-1009(b)(3) removes any recourse for a tenant whose landlord ignores a citation for a code violation (not meeting the threshold for section 8-211 of the Real Property Article), until a further court order has been issued and defied. This incentivizes landlords to defy health and safety enforcement and unnecessarily clog the courts. Meanwhile tenants will be stuck living in unlawful conditions while those cases are resolved. No change

should be made to this provision. In fact, County procedure should be changed so that tenants receive notice when their landlord fails to make repairs ordered by a citation.

- The proposed addition to Sec. 17.1010(9) [UNLESS THE TENANT IS IN ARREARS FROM THE PREVIOUS MONTH] is unnecessary since, if the tenant is delinquent from the previous month, the legal action could have been taken at that point.
- The proposed addition to Sec. 17.1010(12) regarding transfer fees is ambiguous and unenforceable. Sec. 17.1010(13) does not allow a landlord to require a tenant to pay transfer fees for moving from one unit to another during the lease period. The language of Sec. 17.1010(12)(iv) does not create an affirmative right to levy transfer fees, and there is no circumstance in which it favors public policy to create them. For example, transfer fees would not be appropriate if a tenant requests to move to another unit upon *termination* of a lease due to problems with the current unit. The proposed language undermines the prohibition without apparent purpose.
- The proposed deletion of Sec. 17.1010(14) lifts the prohibition of a lease that states it is a contract under seal. In Maryland, a 'contract under seal' is typically subject to a 12-year statute of limitations on claims, as opposed to standard contracts, which are subject to a 3-year statute of limitations. Maryland case law has established that the statute of limitations applicable to actions for back rent under residential leases is three years. *Smith v. Wakefield*, 462 Md. 713 (2019). The use of residential leases purporting to be 'contracts under seal' to mislead legally-unsophisticated tenants is firmly against public policy.

We ask the Council to carefully consider our comments on the proposed legislation and reject changes that will be detrimental to the Howard County renting community.

Sincerely,

Jessica Burgard
on behalf of Howard County Indivisible Economic Equity Action Team

CB12-2021

Sayers, Margery

From: Susan Garber <buzysusan23@yahoo.com>
Sent: Thursday, January 21, 2021 4:41 PM
To: CouncilMail
Cc: Gowan, Amy; Overstreet, Susan
Subject: Amendment suggested to CR 12-2021 on behalf of HCCA and SCA
Attachments: HCCA_SCA CB12-2021 testimonyF.docx

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Please see the attached testimony.
I would welcome the opportunity to further refine the suggested amendment to do a comparative measurement of outcomes in order to evaluate whether the revised Manual/Act achieves the desired outcome of preserving more mature trees/tree canopy.

Susan Garber

Susan Garber, Board member of HCCA and Board Chair of the Savage Community Association, suggesting amendments to CR12-2021 on behalf of the two organizations

For over 20 years, HoCo was out of compliance with the state's regulations on Forest Conservation. As a result of the rapid development which occurred here during this period, the County was declared by the MD DNR to be Number One in forest removal!

Three minutes isn't adequate to suggest amendments *AND* thank everyone involved in the passage of the Act or the production of this manual so I'll have to concentrate on the two amendments to CR12 here.

We truly appreciate all of the effort involved in this critical endeavor and recognize that CR-12 shows many improvements over the previous version. We were pleased that the new Forest Conservation Act offered a chance for improvement, a greater respect for forest preservation and the role established trees play in our life. They create the very oxygen we breathe, stabilize the soil, (especially valuable on steep slopes), reduce air conditioning costs, provide habitat, and, as this pandemic has shown, are greatly beneficial to our mental health. Clearly the new act, and hence **The manual clearly does much to assure reforestation will occur on or near parcels which lose trees to development.**

However, it is much harder to judge if there will be any less removal of mature trees and tree cover. *HCCA & the SCA firmly believe citizens are particularly interested in the preservation of existing trees and if polled would actually prioritize preservation over replanting.*

Therefore we would strongly urge the Council to consider these suggested amendments:

1. Declare this resolution an emergency matter for immediate adoption.

So much loss of mature forest occurred while the County ignored the State Regulations that we need to take action 'yesterday' to begin turning this around. It should take effect immediately upon the Executive's signature to avoid the additional loss of mature trees that may have occurred since the Act became effective almost a year ago (2/5/2020) and which could occur while waiting another 60 days for the application of these changes.

[Note that we were pleased to learn that as a Resolution the effective date would be immediately upon passage by the Council, rather than 61 days beyond, and therefore doesn't need this amendment.]

2. The Second Amendment suggested involves measuring forest conservation outcomes resulting from the new Act/Manual. All too often legislation is passed with the best of intentions, but is almost never revisited to determine whether the actions implemented actually accomplished the goal of that legislation.

We recommend that for one year following adoption of the revised Forest Conservation Manual, the three entities responsible for implementation, [the DPZ, the DRP, and the Office of Community Sustainability] work collaboratively to directly compare the outcome scenarios for all newly submitted development projects (both residential and non-residential, both new construction and revitalization projects) in regards to the preservation of mature trees and tree cover using the forms and formulas reflected in applications from both the new and previous manuals. Within one month of completion of the comparison, the information will be shared with the Council and the County Executive to judge whether further adjustments to the Manual and/or Act are necessitated to achieve the desired outcome.

Why? To his credit, the County Executive called for an update to the Forest Con. Act that would both bring the county into compliance with state law and go beyond it, demonstrating leadership and a commitment to fighting climate change. Making a direct comparison between the outcomes under the new plan versus what would have happened under the old is the only way to objectively measure the impact of the changes. [Did the effort produce positive forest conservation outcomes?]

Those who labored long and hard on establishing the new Act and Manual admitted that they didn't have time to look back on the Forest Conservation Plans of current or previous development projects and recalculate what the outcome would be using the new regulation formulas. **This important missed step needs to occur NOW.** Staff need to compare the preservation outcome of development projects that will be subject to the new regulations/formulas by also calculating what the outcome would have been under the terms of the previous manual.

A final thought on why preservation of mature trees (not just 'specimen trees') is necessary:

Two mature trees can produce enough oxygen to support a family of four for a year. The scientifically supported facts that a mature tree produces more oxygen and sequesters more carbon than a small, newly planted one is common knowledge. But the Development Community shrugs this off, arguing falsely that trees will grow in 20+ years to provide the same benefits as a mature tree. But we'd ask them, and we ask you-- who among you is willing to give up breathing for the next 20+ years?

Tree equity is becoming a real issue for consideration. Should we strip mature stands of trees in the east to concentrate greater and greater population increases when the presence of fewer mature trees can be correlated to more respiratory and other health issues??? We think not.



HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
TO TESTIFY ON BEHALF OF AN ORGANIZATION

I, Susan Garber, have been duly authorized by
(name of individual)

Howard County Citizens Association, HCCA to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CR12-2021 to express the organization's
(bill or resolution number)

support for / opposition to / request to amend this legislation.
(Please circle one.)

Printed Name: Susan Garber

Signature: _____

Date: 17 Jan 2021

Organization: HCCA

Organization Address: HCCA

P.O. Box 89 Ellicott City MD 21041

Number of Members: 500

Name of Chair/President: Stu Kohn

This form can be submitted electronically via email to councilmail@howardcountymd.gov no later than 5pm the day of the Public Hearing or delivered in person the night of the Public Hearing before testifying.



HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
TO TESTIFY ON BEHALF OF AN ORGANIZATION

I, Susan Garber, have been duly authorized by
(name of individual)

the Savage Community Association to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CR12-2021 to express the organization's
(bill or resolution number)

support for / opposition to / request to amend this legislation.
(Please circle one.)

Printed Name: Susan Garber (requesting to amend)

Signature: _____

Date: 1/17/2021

Organization: Savage Community Association

Organization Address: P.O. Box 222 Savage 20723

P.O. Box 222 Savage 20723

Number of Members: 410

Name of Chair/President: Susan Garber

This form can be submitted electronically via email to councilmail@howardcountymd.gov no later than 5pm the day of the Public Hearing or delivered in person the night of the Public Hearing before testifying.



**HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
TO TESTIFY ON BEHALF OF AN ORGANIZATION**

I, Tara H. Simpson, have been duly authorized by
(name of individual)

Preservation Howard County to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CB 12-2021 to express the organization's
(bill or resolution number)

support for / opposition to / request to amend this legislation.
(Please circle one.)

Printed Name: S. Allan Shad, PHC Secretary

Signature: 

Date: January 19, 2021

Organization: Preservation Howard County

Organization Address: P. O. Box 405, Simpsonville, MD 21150

P. O. Box 405, Simpsonville, MD 21150

Number of Members: _____

Name of Chair/President: Tara H. Simpson

This form can be submitted electronically via email to councilmail@howardcountymd.gov no later than 2 hours prior to the start of the Public Hearing.