



# Montgomery County Government

## MEMORANDUM

December 19, 1986

TO: County Council

FROM: Karen Orlansky, <sup>yo</sup> Program Evaluator  
Office of Legislative Oversight

SUBJECT: Office of Legislative Oversight Memorandum Report: An Update on Rental Market Conditions Relating to the March 31, 1987 Sunset of the Tenant Displacement Law, Chapter 53A, Montgomery County Code

### I. Authority, Scope and Methodology

A. Authority. Council Resolution No. 10-1741, Subject: CY 1986 Work Program of the Office of Legislative Oversight, adopted February 11, 1986.

B. Scope. This memorandum report summarizes the legislative history of Chapter 53A, Tenant Displacement. It also provides an update on the rental market conditions that led the Council in 1981 to declare a public emergency and enact Bill #3-81, which created Chapter 53A to provide protection for tenants who may be displaced when a rental facility is converted to a different use or form of ownership.

C. Methodology. Research for this memorandum report was conducted during October and November 1986. The information was gathered through document reviews and interviews with staff from the Department of Housing and Community Development (DHCD), the Office of Consumer Affairs (OCA), the Housing Opportunities Commission (HOC), and Maryland-National Capital Park and Planning Commission (M-NCPPC). The Office of Legislative Oversight (OLO) received full cooperation from all parties.

### II. Background

Emergency Bill #3-81, which created Chapter 53A, Tenant Displacement, was enacted by the Council in February 1981 in response to a legislative finding of a "public emergency" in the rental housing market. The reason for including an initial sunset date of March 31, 1983 was stated in Section 53A-12:

The County Council, in enacting this measure, takes cognizance of the fact that the emergency situation referred to in the legislative findings may ease at some point in the foreseeable future.

Office of Legislative Oversight

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The legislative history of Chapter 53A since 1981 is summarized as Exhibit A. The current version of Chapter 53A is included as Exhibit B. Chapter 53A was originally enacted in February 1981 as a bill applicable to rental facilities undergoing any kind of "conversion", defined to include a change to condominium, cooperative or commercial use, or demolition. Several months later, following the passage of the State law governing condominium conversions, the Council consolidated all local laws governing condominiums into Chapter 11A and amended the scope of Chapter 53A. As a result, since June 1981, Chapter 53A has only applied to situations where tenants are displaced due to a rental facility being converted to a different use or form of ownership other than condominium.

Chapter 53A was extended twice by Council resolutions from March 1983 to March 1985, and from March 1985 to March 31, 1987. In October 1985, the Council amended Chapter 53A to insert the March 31, 1987 sunset date into law and to require a semi-annual report due to the Council from DHCD on the status of the emergency situation regarding tenant displacement.

In accordance with the requirements of Chapter 53A, as amended, the Council has received four reports from the Executive branch concerning the conversion of rental facilities to uses other than condominium; the reports were received in March 1983, February 1985, February 1986, and October 1986. The latest report contained a recommendation for extending the sunset date of Chapter 53A beyond March 31, 1987.

### III. Characteristics of the Rental Public Emergency Declared in 1981

A review of legislative files indicate that the following findings led the Council in 1981 to declare a rental crisis, and to enact Bill #3-81, which created Chapter 53A, Tenant Displacement:

- Low Vacancy Rate. The 1980 Census reported a 5% rental housing vacancy rate in the County. It is generally recognized that in an area the size of Montgomery County, a vacancy rate (defined as the number of unoccupied units ÷ the number of total units) below 6% indicates a tight rental market characterized by rental shortages.

- Large Number of Condominium Conversions. From 1969 - 1981, 16,408 out of 67,000, or 24%, of the apartment rental units in the County were converted to condominiums. DHCD forecast that an additional 4,000 to 6,000 rental units would be converted to condominiums from 1981 - 1983.

- Market Conditions Unfavorable to New Rental Units. Rising land and construction costs, a limited supply of appropriately zoned property, reductions in federal assistance for housing programs, and the existence of local rent controls contributed to the prediction that few, if any, new rental units would be constructed in the near future.

- Economic Incentives for Continued High Rate of Condominium Conversion. Demand was growing from investors attracted by the potential of very high rates of return from condominium conversions; buyers intending to convert rental properties to condominiums were offering 30% - 50% more than buyers planning to retain properties as rentals.

• Displacement of Elderly and Economically Disadvantaged Tenants.

Data collected by the County's 1980 Task Force on Condominium Conversion and letters written to Councilmembers indicated that a large number of elderly tenants on fixed incomes were being adversely affected, both economically and emotionally, by condominium conversions. Task Force questionnaires disclosed that many tenants being displaced by conversion lived on fixed incomes, could not afford to purchase their apartments, had lived in their current apartments for many years, and were overwhelmed by the thought of having to move from their homes.

IV. Update on the Rental Market 1981 - 1986

This section reviews what has happened to the County's rental market since 1981. To the extent possible, updates are provided for the same variables that were discussed by the Council when enacting Chapter 53A: vacancy rate, conversions, tenant displacement, and market conditions.

A. Vacancy Rate. Several different measures of the County's rental housing vacancy rate are available: average vacancy rate and vacancy rates for different rent ranges, apartment sizes, and market areas. Table I shows that the average rental vacancy rate in the County hovered around 5% in the early 1980's, but since 1983 has fluctuated at even lower rates.

TABLE I

<u>Average Rental Vacancy Rate<sup>1</sup></u>						
<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>
5.13%	5.1%	5.08%	4.14%	2.6%	3.2%	3.4%

From 1982 - 1986, the rental vacancy rate decreased in all but the highest rent range. The lowest range -- apartments that rent for below \$250 a month -- was completely eliminated. The largest percentage decline in the vacancy rate was in the rent range of \$250 - \$349 a month where the vacancy rate dropped from 3.2% in 1982 to 1.3% in 1986, indicating that renters with the lowest income have a more difficult time finding available housing. In contrast, renters who can afford to pay \$650 or more a month in rent can more readily obtain housing with a 7.7% vacancy rate recorded in 1986 for the highest rent range.

The size of apartments in the County range from one-room efficiencies to four-bedroom units. From 1982 - 1985, the vacancy rate in every size apartment group except the four-bedroom unit decreased. From 1985 - 1986, the four-bedroom vacancy rate also dropped going from 5% to 2.7% in one year, signifying growing difficulties in locating housing for larger families. The latest vacancy rate for two- and three-bedroom apartments is 3.7%. Not surprisingly, the statistics also show it is harder to find larger rental units in the lower rent ranges, compounding the difficulties of low income families to obtain affordable housing.

<sup>1</sup> Sources: Office of Landlord Tenant Affairs reports and "The Rental Housing Market in the Washington Metropolitan Area", Economic and Market Analysis Section, U.S. Department of Housing and Urban Development, January 1985.

The Office of Landlord Tenant Affairs divides the County into six different rental market areas.<sup>1</sup> Vacancy rates vary by area; the vacancy rates in the more developed areas of the County were low four years ago, and are even lower today. This year's survey shows the areas with the lowest vacancy rates are Bethesda/Chevy Chase (1.9%) and Silver Spring/Takoma Park (2.6%). The areas with the highest rates are Colesville/White Oak (5.0%) and Gaithersburg/Germantown (4.9%).

## B. Conversions

1. Condominium Conversions. Although Chapter 53A no longer applies to condominium conversions, a review of condominium conversion activity is important to understanding changes in the rental market.

Table II (on page 5) lists the number of rental units converted to condominium according to the year in which the official notice to convert was issued. Although the data indicate the greatest number of units were converted in 1980 and 1981, the actual changeover of these units from rental to owner-occupied is something that has occurred throughout the 1980's. Many property owners issued their official notice of intent to convert prior to July 1981, the effective date of State and County tenant protection legislation. In reality, however, the marketing and sale of converted units is a gradual process that results in an ongoing depletion of the rental stock.

The data indicate a lower rate of new conversions during the mid-1980's. This decline is partially explained by the fact that many of the most attractive (i.e., least cost to renovate, easiest to market) rental buildings were converted before 1981. Also contributing to a lower rate of condominium conversions have been higher interest rates, availability of more attractive alternative investment opportunities, and what some observers call the "chilling effect" of tenant protection laws.

When a rental building is converted to a condominium, a number of the units usually remain available for rent. Out of the 4,728 rental units converted to condominium within the past six years, it is estimated that 864 (18%) have remained rental units.

In 1983, the County began licensing condominium units that are rented<sup>2</sup>. As of November 1986, OLTA's records indicate 4,951 condominium units licensed as rental units; this includes units in buildings built as condominiums and units in buildings that were converted to condominium and rented by the new owner.

2. Other Types of Conversions. Conversions other than condominium also reduce the number of units in the rental stock. The major kinds of these changes occur when a rental building is converted to a cooperative, hotel use, or commercial use, or is subject to demolition, license revocation, or foreclosure; it also occurs when a house that had been occupied as a rental converts to being owner-occupied.

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<sup>1</sup> Bethesda/Chevy Chase, Colesville/White Oak, Gaithersburg/ Germantown, Rockville, Silver Spring/Takoma Park, and Wheaton.

<sup>2</sup> Chapter 29, Landlord-Tenant Relations, requires all rented condominiums located in multi-family properties to be licensed except for units occupied by a person who has an ownership interest in the unit or by a person who is a relative of the landlord.

TABLE II

Rental Conversions to Condominiums<sup>1</sup>  
1980 - 1986

	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>Total</u>
Condominium Conversions	1,810	1,663	-0-	420	355	300	180	4,728
Remained Rental <sup>2</sup>	330	303	-0-	80	65	54	32	864
Net Conversions	1,480	1,360	-0-	340	290	246	148	3,864

TABLE III

Rental Conversions Other than Condominium<sup>3</sup>  
1981 - 1986

Building Converted  
from Rental to:

	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>Total</u>
Cooperative			135		169		304
Owner Occupied Dwelling <sup>4</sup>	24	27	36	3	19	35	144
Commercial Use		40		31	29	8	108
Hotel	83					3	86
Demolished				25	3	6	34
Other <sup>5</sup>		2	2	17	6	10	37
<b>Total Number of Conversions</b>	<b>107</b>	<b>69</b>	<b>173</b>	<b>76</b>	<b>226</b>	<b>62</b>	<b>713</b>

<sup>1</sup> Source: "The Rental Housing Market in the Washington Metropolitan Area", Economic and Market Analysis Section, U.S. Housing and Urban Development, January 1985.

<sup>2</sup> The number of units that continue to be available for rent is an estimate based upon HUD surveys.

<sup>3</sup> Source: Office of Landlord-Tenant Affairs records.

<sup>4</sup> 83 of these were MPDU units sold after remaining rental for the required time period.

<sup>5</sup> Loss of rental units due to foreclosure or license revocation.

As outlined in Table III (on page 5), since July 1981, the rental stock has declined by approximately 713 units due to something other than a condominium conversion. Almost half (304 units) were converted to cooperatives and another 144 units changed into owner-occupied dwellings, of which over half were sold MPDU units; 108 units were converted from rental into commercial use.

It is difficult to make any conclusions about the trend since 1981 in terms of the number and type of these other conversions. The large number of units lost in 1983 and 1985 was due primarily to two single cases of cooperative conversion that are not expected to occur again. The data does not show a steady increase in any of the other categories.

**C. Rental Stock and Renter Population**

Although the County's rental stock has increased, it has not kept pace with population growth. As Table IV shows, from 1980 to 1984, there was a 6% increase in population and a 2% increase in the number of rental units. Rental units as a percent of all housing units in the County declined from 34% to 32.5%.

The 2% growth in rental units from 1980 - 1984 can be attributed predominantly to the Housing Opportunities Commission's (HOC's) tax-exempt bond program. HOC financing is estimated to result in an additional 3,000 rental units over the next two years. After these so-called "pipeline" projects are completed, however, no additional moderate-income rental construction is expected.

According to the 1984 census update by M-NCPPC, 32.5% of the County households are renters. White households account for 88% of the County's total number of households and 81% of the renter households. Nonwhite households account for 12% of the total number of households and 19% of the renter households. Approximately 51% of the total number of nonwhite households in the County are renters.

Elderly households, those with a head of household 65 years or older, account for 10% of the total number of households and 15% of the renter households. Elderly renter households are approximately 30% of the total number of elderly households in the County.

**TABLE IV**

**Rental Stock as a Percentage of Total Housing Stock 1980 - 84<sup>1</sup>**

	<u>1980</u>	<u>1984</u>	<u>% Changes</u>
Population	573,053	610,000	+ 6%
Total Number of Housing Units	216,221	228,436	+ 6%
Total Number of Rental Units	73,056	74,241	+ 2%
Rental Units as a Percent of all Housing Units	34%	32.5%	- 1.5%

<sup>1</sup> 1980 Census, U.S. Census Bureau and 1984 Census Update Survey, Montgomery County Planning Board, March 1986.

#### D. Tenant Displacement

No department keeps data on the number or demographics of all tenants displaced by conversions. Information on who uses the Tenant Displacement Aid Fund does, however, provide some reflection of displaced renters.

Originally enacted as the Condominium Conversion Emergency Aid Fund, the Tenant Displacement Aid Fund (County Code Sections 56-33 and 56-34) provides down payment assistance loans and rental assistance grants to elderly, handicapped, and other persons of moderate income who are displaced by rental conversions. According to DHCD, approximately 80% of the 168 households assisted through the fund since FY 84 have been over 62 years of age. The fund dispersed \$243,462 to 92 households in FY 84, \$83,920 to 32 households in FY 85, and \$107,684 to 44 households in FY 86.

#### E. Market Conditions: Effects of the New Tax Law on the Rental Market.

According to the National Association of Homebuilders<sup>1</sup> and the Bureau of National Affairs<sup>2</sup>, the new federal tax law will create new problems for multi-family housing builders, investors, and tenants. Most housing experts predict a lower return on rental property investments due to (1) substantial restrictions on tax deductions and credits rental housing builders and investors are able to claim, and (2) volume caps on multi-family tax-exempt bonds.

Housing market observers seem to agree that the new tax law discourages construction of and investment in rental properties; it also encourages landlords to either convert their buildings to commercial use or condominiums, or increase rents to compensate for the tax benefit losses. Tenants are likely to face higher rents and lower vacancy rates in the County's rental market.

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1 Source: "The Impacts of the Tax Reform Act of 1986: An Overview", The National Association of Home Builders, Economics, Mortgage Finance and Housing Policy Division, September 10, 1986.

2 Source: "Special Report on Tax Reform", Housing and Development Reporter, The Bureau of National Affairs, Inc., November 3, 1986.

## V. Conclusions

Although the characteristics that constituted the rental crisis in 1981 have changed, the overall condition of the rental market has not improved:

- Vacancy rates are lower today than they were in the early 1980's; the lowest rates are for larger, lower-priced units, producing an ever tighter rental market for low-income families, and in areas of dense development (Bethesda/Chevy Chase and Silver Spring/Takoma Park);

- Although the number of rental units has increased, rental units as a percent of the housing stock have declined;

- After the pipeline of revenue-bond rental projects is completed, no additional moderate-income rental construction is anticipated;

- A disproportionate percentage of the County's renter population continues to be elderly and/or nonwhite;

- Although the rate of condominium conversions has slowed from that of the early 1980's, the rental stock continues to decline due to rental facilities being converted to different uses or forms of ownership; and

- The new tax law will almost certainly have a negative impact on the rental market; housing experts predict lower levels of rental housing construction and investment, an increase in conversions, and higher rents.

## VI. Recommendations

1. If the Council continues to base its decision to extend or not to extend Chapter 53A, Tenant Displacement, on the existence of a rental crisis, then OLO recommends extending the sunset date of Chapter 53A from March 31, 1987 to March 31, 1989.

2. The scope of this memorandum report did not include evaluating the effectiveness of Chapter 53A. OLO recommends that, over the next two years, Council direct that the substance and administration of Chapter 53A be evaluated to determine whether changes are needed to better achieve the legislative intent of providing protection for tenants who may be displaced when a rental facility is converted to a different use or form of ownership.

cc: Council Staff Director  
Chief Administrative Officer and appropriate staff departments

## EXHIBIT A

### Legislative History of Chapter 53A - Tenant Displacement Montgomery County Code

- February 3, 1981 -- Council passes Bill #3-81 to create Chapter 53A - Tenant Displacement, Montgomery County Code. Chapter 53A establishes a procedure to permit tenant associations and the County to exercise the right of first refusal to purchase rental facilities that are undergoing a change of status, i.e. conversion to condominium, cooperative or commercial use, or demolition. It also establishes guidelines for giving notice to displaced tenants, relocation costs, and other tenant rights. Chapter 53A is enacted with an initial sunset date of March 31, 1983.
- 1981 State  
Legislative Session-- Maryland General Assembly passes SB 1028 to amend Chapter 11-136, Property Rights, Annotated Code of Maryland. SB 1028 gives the right to local governments, but not to tenant associations, to exercise the right of first refusal to purchase rental facilities that are converting to condominiums.
- June 23, 1981 -- Council passes Bill #26-81 to amend Montgomery County Code Chapters 53A, Tenant Displacement and 11A, Condominiums. Bill #26-81 conforms County law to recently enacted SB 1028 and consolidates all laws governing condominium conversions into Chapter 11A and amends Chapter 53A to apply only to conversions other than condominium.
- March 22, 1983 -- Council passes Resolution #10-107 to extend Chapter 53A from March 31, 1983 to March 31, 1985.
- June 21, 1983 -- Council passes Bill #33-83 to amend Chapters 11A and 53A. Bill #33-83 makes technical corrections so that County law is consistent with State law, and certain internally contradictory language is eliminated.
- March 19, 1985 -- Council passes Resolution #10-1212 to extend Chapter 53A to March 31, 1987.

- October 15, 1985 -- Council passes Bill #36-85 to amend Chapter 53A. Bill #36-85 inserts into law the March 31, 1987 sunset date passed by Council Resolution, and adds the requirement of a semi-annual report due to the Council from DHCD, regarding tenant displacement. Prior to Bill #36-85, Chapter 53A required OLTA to report to the Council every 6 months.
- January 14, 1986 -- Council votes down Bill #32-85 which proposed amending the right of first refusal procedures in Chapters 11A and 53A. Under present law, an owner of a rental facility must offer that property to the County before selling to a private purchaser unless that purchaser agrees to maintain the property as a rental facility for three years. Bill #32-85 would have given the County, instead of the purchaser, the option of exercising its right of first refusal or entering into a three-year rental agreement.
- October 1, 1986 -- Council receives memorandum from the Director of DHCD recommending continuance of Chapter 53A.
- March 31, 1987 -- Sunset date of Chapter 53A.

## EXHIBIT B

### Chapter 53A.

#### TENANT DISPLACEMENT.\*

- § 53A-1. Legislative findings.
- § 53A-2. Definitions.
- § 53A-3. Right of first refusal to purchase rental facilities.
- § 53A-4. Reserved.
- § 53A-5. Exemptions.
- § 53A-6. Certification of compliance.
- § 53A-7. Penalties for violation of chapter.
- § 53A-8. Notice to tenants of status conversion; right of tenant to terminate lease; liability for relocation costs.
- § 53A-9. Complaints; penalties; enforcement.
- § 53A-10. Administration of chapter.
- § 53A-11. Applicability of chapter.
- § 53A-12. Semiannual reports to the council.
- § 53A-13. Sunset date.

#### Sec. 53A-1. Legislative findings.

The county council for Montgomery County, Maryland, hereby finds that there exists a public emergency caused by the increase in the sale of existing rental facilities for conversion to condominium projects, cooperative projects, or other forms of property ownership or use, and that these sales have the effect of displacing tenants from their dwelling units. The county council also determines that the increase in these sales, together with the potential displacement of tenants, has caused great fear, confusion and anxiety among the persons who reside in rental facilities. Further, the county council notes that there presently exists and inadequate number of rental units available, planned or under construction, to replace the rental units which are being converted to other uses, with detrimental effect, thus frustrating the county general plan concepts for a balanced housing mix and adequate provisions for housing needs of all segments of this community. Accordingly, the county council finds that it is in the best interest of the public health, safety and general welfare to establish a chapter of law providing for the protection of those

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\*Cross references—Condominiums, ch. 11A; cooperative housing, ch. 11C; group residential care facilities, ch. 23A; moderately priced housing, ch. 25A; landlord-tenant realtions, ch. 29; rent supplement and assistance program, ch. 41A; transient lodging facilities, ch. 54.

tenants who may be displaced by the sale of a rental facility for conversion to a different use or form of ownership. The county also finds that the problems created by or resulting from these sales are many and include major displacement of large numbers of tenants from their dwelling units, scarcity of low- and moderate-income dwelling units on the market when demand for such units is increasing, and inadequate numbers of rental dwellings available to replace the rental units being sold. Accordingly, the county council finds that it is in the best interest of the public health, safety and general welfare to provide certain organizations a reasonable right of first refusal to purchase a rental facility in order to provide a reasonable and fair mechanism for maintaining rental units on the market and minimizing the displacement of tenants. New construction has been exempted because the conversion of newly constructed rental facilities to nonrental status has in no way contributed to the current emergency situation. (1981 L.M.C., ch. 32, § 1.)

**Sec. 53A-2. Definitions.**

(a) *Conversion* means subjecting a rental facility to a change in status or use, including but not limited to the establishment of a commercial use of the facility, or partial or complete demolition. Additionally, "conversion" shall mean any other alteration in the status or use of the rental facility which has the effect of displacing tenants from thirty-three (33) percent or more of the occupied rental units within any twelve-month period or any other act which has the effect of ceasing the operation of the property as a rental facility.

For the purposes of this chapter, conversion shall not include the establishment of a condominium regime.

(b) *Owner* means any person holding title to a rental facility.

(c) *Rental facility* means any structure or combination of related structures and appurtenances, operated as a single entity in which the owner thereof provides for a consideration ten (10) or more rental residential dwelling units, regardless of the legal status of the property, but shall not be construed to mean any transient facilities and any facilities operated for religious or eleemosynary purposes.

(d) *Tenant* means any person having a leasehold right to occupy a dwelling unit in a rental facility.

(e) *Title* means legal or equitable ownership of a rental facility or the legal, equitable or beneficial ownership of partnerships, limited partnership, corporations or trusts holding title to a rental facility.

(f) *Transfer* and *transfer of title* mean (1) the transfer of the legal title to a rental facility, or (2) transfer of substantial ownership or beneficial interests or both, in a general or limited partnerships, corporations, trusts or any combination thereof which hold the legal title to a rental facility. The transfer of substantial ownership or beneficial interests means the transfer within a one-year period of a total of fifty-one (51) percent or more of the ownership of said partnerships, stock in said corporations, beneficial interests in the trust or any combination thereof. (1981 L.M.C., ch. 32, § 1; 1982 L.M.C., ch. 2, § 2; 1985 L.M.C., ch. 39, § 2.)

**Sec. 53A-3. Right of first refusal to purchase rental facilities.**

(a) *Sale of rental facilities.* Prior to the sale or transfer of a rental facility of more than ten (10) rental units to any person for the purpose of conversion, the owner shall provide a right of first refusal to purchase the rental facility to the county, its designated housing agency and tenants' organizations certified by the office of consumer affairs pursuant to executive regulations.

(1) All sales or transfers of rental facilities of more than ten (10) units shall be deemed to be sales for the purpose of conversion and subject to the requirements of this section unless the contract purchaser at least thirty (30) days prior to the sale enters into an agreement with the county to retain the property as a rental facility for at least three (3) years after the date of transfer of the property.

(2) Notwithstanding the above, transfers of rental facilities for the purpose of conversion to condominium are subject to the requirements of chapter 11A, of this Code and shall be exempt from the requirements of this chapter.

(3) For purposes of this section, the Montgomery County Housing Opportunities Commission is the designated housing agency.

(4) All contracts for the purchase or transfer of title to a rental facility, and title obtained pursuant thereto, shall be con-

tingent upon and subject to full compliance with the requirements of this section.

(b) *Notice required; exercise of right of first refusal.*

(1) Prior to the transfer of any rental facility under this section, the owner shall give written notice to the county, its designated housing agency, and all tenants of the rental facility of the terms and conditions under which the owner would agree to sell the rental facility. Notice shall be deemed given on the latest date this notice is actually received by Montgomery County, its designated housing agency, and tenants in the facility. This notice shall constitute the terms and conditions of the right of first refusal exercisable by the county, its designated housing agency, or a certified tenants' organization hereunder. For the purposes of this section, "tenant organization" means a bona fide association of resident tenants of a rental facility, certified by the office of consumer affairs as representing at least thirty (30) percent, or five (5) units, whichever is the greater number of units occupied by tenants of the rental facility.

(2) The county, its designated housing agency, or the certified tenants' organization may exercise the right of first refusal by compliance with the following:

a. The county, its designated housing agency, or the certified tenants' organization shall, within sixty (60) days of the date notice is given, offer to the owner a binding contract containing substantially the same terms and conditions contained in the owner's notice, which contract shall be binding on the owner if the contract contains a contingency entitling the local government or the certified tenants' organization to secure financing within one hundred eighty (180) days from the date notice was given;

b. Thereafter, the county, its designated housing agency or the certified tenants' organization shall satisfy or waive the financing contingency clause within the one-hundred-eighty-day period; and

c. The settlement on the contract shall occur within one hundred eighty (180) days from the date notice was given.

(3) Notwithstanding the above, the owner and the county, its designated housing agency, or the certified tenants' organization may agree by the terms of the contract to extend the date within which the county or the designated housing agency shall secure financing, and within which settlement shall occur.

(4) The county executive may require the owner, by executive regulations, to make available to the county, its designated housing agency, and certified tenants' organization information regarding the characteristics and condition of the facility deemed relevant to the exercise of the right of first refusal, including but not limited to architectural and engineering plans and specifications and facility operating data. In addition, the county executive by regulation may require the owner to provide access to the facility for purposes of inspection by the county, its designated housing agency, and certified tenants' organization; provided, the county, its designated housing agency, and certified tenants' organization, and their agents shall be responsible for any damage to the property caused by such inspection. The county executive may provide by regulation that any information received by either the county or its designated housing agency, pursuant to this subsection, is confidential and not subject to public disclosure.

(c) *Owner's right to proceed; liability of county, its designated housing agency, and the certified tenants' organization.*

(1) If the county, its designated housing agency, and the certified tenants' organization fail to exercise their right of first refusal, the owner shall have the right to enter into a contract and make settlement on that contract with any other purchaser under substantially the same terms and conditions as contained in the notice to the county, its designated housing agency, and the certified tenants' organization.

(2) If the county, its designated housing agency, and the certified tenants' organization fail to exercise their right of first refusal, the purchaser may proceed with conversion of the rental facility.

(3) The county, its designated housing agency, and the certified tenants' organization shall be under no obligation to exercise their right of first refusal and shall have no liability for failure to exercise the right of first refusal created hereunder.

(d) *Certificate of compliance or exemption.* Within ten (10) days following the written application of any interested person, and upon receipt of satisfactory proof, the director of the office of consumer affairs shall deliver to that person a written certificate in recordable form on, or incorporating by specific reference, any instrument made to evidence the transfer of a rental facility stating, as the circumstances may require, that either:

(1) As to that transfer, the requirements of this section have been fully complied with and the rights of the county, its designated housing agency, and any certified tenants' organization pursuant to this section have terminated; or

(2) That transfer is exempt from the requirements of this section.

The certificate of the director shall be conclusive as to the county, its designated housing agency, any certified tenants' organization, the parties of the instrument, and all persons claiming under or through any of them. The director may require the payment of a reasonable fee for the certificate.

If the director fails or refuses to deliver the certificate within the time specified, the director shall so notify the applicant in writing within the time specified and shall state, in reasonable detail, the reason or reasons for such failure or refusal. (1981 L.M.C., ch. 32, § 1; 1982 L.M.C., ch. 2, § 3.)

#### **Sec. 53A-4. Reserved.**

**Editor's note**—Section 53A-4 was reserved by 1981 L.M.C., ch. 32, § 1; 1982 L.M.C., ch. 2, § 3.

#### **Sec. 53A-5. Exemptions.**

Unless the method of disposition is adopted for purposes of evasion of this chapter, the provisions of this chapter shall not apply to any contracts relating to the following:

(a) Any transfer made pursuant to the terms of a bona fide mortgage or deed of trust agreement.

(b) Any transfer to a mortgagee in lieu of foreclosure or any transfer pursuant to any bankruptcy proceeding or arrangement in lieu of bankruptcy, or deed in lieu of foreclosure.

(c) Any transfer made pursuant to a judicial sale or other judicial proceeding brought to a secure payment of a debt or for the purpose of securing the performance of an obligation.

(d) Any transfer of the interest of one cotenant to another cotenant by operation of law.

(e) Any transfer made by will, or intestate distribution.

(f) Any transfer made to any municipal, county or state government or to any agencies, instrumentalities or political subdivisions.

(g) Any transfer of a minority interest of title.

(h) Any transfer of a rental facility which is the subject of an enforceable restrictive covenant, recorded among the land records of the county, prohibiting any use of the structure other than as a rental facility for a minimum of ~~five~~ (5) years from the date of transfer. The covenant may include an exemption for commercial uses in existence at the time of its recordation.

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(i) Any transfer of a rental facility for which the initial building permit was issued after the effective date of this chapter. (1981 L.M.C., ch. 32, § 1.)

**Sec. 53A-6. Certificate of compliance.**

The director of the office of consumer affairs, upon receipt of satisfactory proof of compliance, shall furnish to the parties of the contract certificate in a form appropriate for recordation among the land records of Montgomery County, Maryland, certifying that the requirements of this chapter have been satisfied as of the date of the certificate with respect to the rental facility identified in the certificate. The director of the office of consumer affairs may require the payment of a reasonable fee for the certificate. (1981 L.M.C., ch. 32, § 1.)

**Sec. 53A-7. Penalties for violation of chapter.**

(a) It shall be unlawful for any person to transfer title, substantially amend, assign or enter into a contract for the sale of title to any rental facility subject to the provisions of this chapter except upon compliance with the requirements of this chapter.

(b) Any person who violates any provision of this chapter shall be liable for the payment of the county of a civil penalty specified in section 53A-9. Each transfer of title to any rental facility in violation of the requirements of this chapter shall constitute a separate offense.

(c) The penalties and remedies provided in section 53A-9 shall be applicable to violations of the requirements of this section. (1981 L.M.C., ch. 32, § 1.)

**Sec. 53A-8. Notice to tenants of status conversion; right of tenant to terminate lease; liability for relocation costs.**

(a) At least sixty (60) days prior to converting a rental facility or portions thereof from rental status to a different status or

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\* Changed by Bill 33-83

(d) Any person who violates any provision of this chapter, or fails to fulfill an obligation imposed by this chapter, shall be liable for the payment to the county of a civil penalty, recoverable in a civil action, in the sum of not more than five hundred dollars (\$500.00) for each such violation.

(e) In addition to any other penalty herein provided, injunctive or other appropriate action or proceeding to correct a violation of this chapter may be instituted by the county attorney's office, including appropriate enforcement of restrictive covenants contemplated by section 53A-5(h); and any court of competent jurisdiction may issue restraining orders, temporary or permanent injunctions or other appropriate forms of relief.

(f) Nothing herein shall prevent any person from exercising any right or seeking any remedy under this chapter or exercising any right or seeking any remedy to which such person might otherwise be entitled or from filing an appropriate complaint with a court of law or equity. (1981 L.M.C., ch. 32, § 1.)

**Sec. 53A-10. Administration of chapter.**

The office of consumer affairs shall be responsible for administration of this chapter; and the county executive shall, from time to time, issue such written regulations as may be necessary to put into effect and to administer the provisions of this chapter. (1981 L.M.C., ch. 32, § 1)

**Sec. 53A-11. ~~Applicability of chapter.~~ Reserved \***

This chapter shall be effective throughout the county except in any incorporated town, village or other municipality which by law has authority to enact a law on the same subjects as covered by the sections ( ~~DELETED~~ ) incorporated town, village or other n. .... pter and request the county to enforce the provisions thereof within its corporate limits, the county shall thereafter administer and enforce the same within such incorporated town, village or municipality. (1981 L.M.C., ch. 32, § 1.)

**Sec. 53A-12. Semiannual reports to the council.**

The county council, in enacting this measure, takes cognizance of the fact that the emergency situation referred to in the  
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\*.This entire section was deleted by Bill152-34

legislative findings may ease at some time in the foreseeable future. Every six (6) months, the department of housing and community development must send a report to the council on the status of the emergency situation regarding tenant displacement. (1981 L.M.C., ch. 32, § 1; 1986 L.M.C., ch. 20, § 1.)

**Editor's note**—Section 53A-12 was formerly entitled "Termination" and provided for, extension of the chapter by resolution. Extensions were effected by the following resolutions: 10-107, 10-1212. See § 53A-13 for sunset date.

**Sec. 53A-13. Sunset date.**

Sections 53A-1 through 53A-13 of this Code are no longer effective after March 31, 1987. (1986 L.M.C., ch. 20, § 2.)

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use, other than condominium, the owner shall give to each tenant written notice of his intention to convert the status or use of the rental facility. The notice shall be given by certified mail.

(b) Any tenant entitled to receive a notice of intention to convert the status or use of the rental facility, under this chapter, shall at any time after receipt of the notice have the right to terminate his lease and extensions created by law, by providing at least thirty (30) days' notice to the owner, without penalty or other termination charge to the tenant.

(c) Any tenant who, within one hundred eighty (180) days after receipt of a notice of intention to convert the status or use of the rental facility, under this chapter, gives written notice of intent to move to the owner shall be entitled to reimbursement by the owner for the reasonable costs of relocation assistance as determined by executive regulation;<sup>2</sup> up to seven hundred fifty dollars (\$750.00); provided that complaints regarding the application of this subsection may be filed with the office of landlord-tenant affairs. (1981 L.M.C., ch. 32, § 1; 1982 L.M.C., ch. 2, § 3.) \*(Sec below)

#### **Sec. 53A-9. Complaints; penalties; enforcement.**

(a) Any person subjected to any unlawful practice as set forth in this chapter may file a complaint in writing with the Montgomery County Office of Consumer Affairs pursuant to the provisions for filing such complaints as set forth in chapter 11.

(b) The office of consumer affairs is hereby authorized and directed to receive complaints filed pursuant to this chapter and to conduct such investigations and hearings as it deems necessary pursuant to the authority vested in that office by chapter 11.

(c) Whenever it is determined by the office of consumer affairs that there has been a violation of this chapter or any duly adopted rule or regulation of the county, that office is authorized, at its discretion, to take one or more of the following actions:

- (1) Attempt to conciliate the matter by conference or otherwise and secure a written conciliation agreement; or
- (2) Seek a written assurance of discontinuance, which shall be signed by the owner and the director of the office of consumer affairs; or
- (3) Issue appropriate cease and desist orders; or
- (4) Refer the matter to the county attorney for injunctive or other appropriate legal action.

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\* "adopted under Method(3) of Section 2A-15 of this Code" Added by Bill 46-83