

HOUSE BILL 71

N1

2lr0499

(PRE-FILED)

By: **Delegate Stewart**

Requested: September 17, 2021

Introduced and read first time: January 12, 2022

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Manufactured Homes – Conversion to Real Property and Sale of Manufactured**
3 **Housing Communities**
4 **(Manufactured Housing Modernization Act)**

5 FOR the purpose of authorizing an owner of a manufactured home who does not own the
6 land on which the home is affixed to convert the home to real property; providing
7 that the conversion to or severance from real property of a manufactured home does
8 not affect rights and duties of the landowner; requiring the owner of a manufactured
9 housing community to comply with certain requirements when selling the
10 manufactured housing community, including providing homeowners the opportunity
11 to purchase the manufactured housing community; and generally relating to
12 manufactured homes and manufactured housing communities.

13 BY repealing and reenacting, without amendments,
14 Article – Commercial Law
15 Section 9–102(a)(54)
16 Annotated Code of Maryland
17 (2013 Replacement Volume and 2021 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article – Real Property
20 Section 8B–101(a), (b), and (g) through (i), and 8B–203
21 Annotated Code of Maryland
22 (2015 Replacement Volume and 2021 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article – Real Property
25 Section 8B–201 and 8B–202
26 Annotated Code of Maryland
27 (2015 Replacement Volume and 2021 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to

2 Article – Real Property

3 Section 8B–204 and 8B–303; and 8B–401 through 8B–409 to be under the new
4 subtitle “Subtitle 4. Sale of Manufactured Housing Communities”

5 Annotated Code of Maryland

6 (2015 Replacement Volume and 2021 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
8 That the Laws of Maryland read as follows:

9 **Article – Commercial Law**

10 9–102.

11 (a) In this title:

12 (54) “Manufactured home” means a structure, transportable in one or more
13 sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet
14 or more in length, or, when erected on site, is 320 or more square feet, and which is built
15 on a permanent chassis and designed to be used as a dwelling with or without a permanent
16 foundation when connected to the required utilities, and includes the plumbing, heating,
17 air-conditioning, and electrical systems contained therein. The term includes any structure
18 that meets all of the requirements of this paragraph except the size requirements and with
19 respect to which the manufacturer voluntarily files a certification required by the United
20 States Secretary of Housing and Urban Development and complies with the standards
21 established under Title 42 of the United States Code.

22 **Article – Real Property**

23 8B–101.

24 (a) In this title the following words have the meanings indicated.

25 (b) “Attached to a permanent foundation” means anchored to real property by
26 attachment to a permanent foundation and connected to utilities, including water, gas,
27 electricity, or sewer or septic service.

28 (g) “Manufactured home” has the meaning stated in § 9–102(a) of the Commercial
29 Law Article.

30 (h) “Owner” means a person that has an ownership interest in a manufactured
31 home.

32 (i) “Sever” means to separate a manufactured home that has been converted to
33 real property from the parcel of real property to which it has been affixed.

8B-201.

(A) (1) IN THIS SECTION, “LAND CONTROLLED BY THE HOMEOWNER” MEANS LAND ON WHICH THE OWNER OF A MANUFACTURED HOME HAS A LEGAL RIGHT TO LOCATE THE HOME.

(2) “LAND CONTROLLED BY THE HOMEOWNER” INCLUDES LAND:

(I) OWNED BY THE OWNER OF THE MANUFACTURED HOME;

(II) OWNED BY A COOPERATIVE HOUSING CORPORATION OF WHICH THE OWNER OF THE MANUFACTURED HOME IS A MEMBER; OR

(III) ON WHICH THE MANUFACTURED HOME IS LOCATED WITH THE CONSENT OF THE RECORD OWNER OF THE LAND, SUCH AS UNDER A RENTAL AGREEMENT.

(B) A manufactured home shall be converted to real property when all of the following events have occurred:

(1) The manufactured home is attached to a permanent foundation;

(2) [The ownership interests in the manufactured home and the parcel of real property to which the manufactured home is affixed are identical] **THE MANUFACTURED HOME IS LOCATED ON LAND CONTROLLED BY THE HOMEOWNER;** and

(3) An affidavit of affixation complying with the requirements of § 8B-202 of this subtitle has been recorded with the clerk of the court of the county in which the parcel of real property to which the manufactured home is affixed is located.

8B-202.

(a) An affidavit of affixation shall contain or be accompanied by:

(1) A description of the manufactured home, including:

(i) The name of the manufacturer, make, model name, model year, dimensions, and manufacturer’s serial number; and

(ii) A statement whether the manufactured home is new or used;

(2) The street address and legal description of the parcel of real property to which the manufactured home is or will be affixed; **AND**

1 [(3) A statement that the ownership interests in the manufactured home
2 and the parcel of real property to which the manufactured home is or will be affixed are
3 identical or will be identical after filing the affidavit of affixation in the land records; and]

4 [(4)] (3) A statement that the manufactured home is or will be attached
5 to the real property described at the time of the filing of the affidavit of affixation in the
6 land records.

7 (b) (1) Except as provided in paragraph (2) of this subsection, an affidavit of
8 affixation shall be accompanied by:

9 (i) An original certificate of title issued by the Motor Vehicle
10 Administration for the manufactured home that:

11 1. Has the word “surrendered” clearly written on its face; and

12 2. If the certificate of title indicates that there is a lien on the
13 manufactured home, is accompanied by a release from each party that is indicated to have
14 a lien on the manufactured home; or

15 (ii) A manufacturer’s certificate of origin for the manufactured home
16 that:

17 1. Has the word “surrendered” clearly written on its face; and

18 2. If the manufacturer’s certificate of origin indicates that
19 there is a lien on the manufactured home, is accompanied by a release from each party that
20 is indicated to have a lien on the manufactured home.

21 (2) If the owner is unable to locate an original certificate of title or a
22 manufacturer’s certificate of origin, the affidavit of affixation shall be accompanied by a
23 report prepared and acknowledged by an attorney licensed to practice in the State or a title
24 insurance producer licensed to do business in the State that:

25 (i) Identifies the party preparing the report;

26 (ii) States that a search has been conducted of:

27 1. The land records of the county in which the parcel of real
28 property to which the manufactured home is or will be affixed is located; and

29 2. The records maintained by the Motor Vehicle
30 Administration; and

31 (iii) Identifies all liens on the manufactured home, including for each
32 lien:

1. The name of the lien holder;
2. The nature of the lien;
3. The date the lien was created; and
4. The amount of the lien.

(c) (1) If an affidavit of affixation is accompanied by an original certificate of title, the affidavit shall be accompanied by:

(i) A statement that it is the intent of the owner to surrender the certificate of title; and

(ii) A statement that:

1. There is no lien on the manufactured home; or
2. Any lien on the manufactured home has been satisfied and the appropriate releases are attached and made a part of the affidavit of affixation.

(2) If an affidavit of affixation is accompanied by a manufacturer's certificate of origin, the affidavit shall be accompanied by:

(i) A statement that a certificate of title has not been issued for the manufactured home;

(ii) A statement that it is the intent of the owner to surrender the manufacturer's certificate of origin; and

(iii) A statement that:

1. There is no lien on the manufactured home; or
2. Any lien on the manufactured home has been satisfied and the appropriate releases are attached and made a part of the affidavit of affixation.

(3) If an affidavit of affixation is accompanied by a statement from an attorney or title insurance producer, the affidavit also shall be accompanied by:

(i) A statement that the owner is unable to locate a certificate of title or a manufacturer's certificate of origin for the manufactured home; and

(ii) A statement that identifies all liens on the manufactured home, including for each lien:

1. The name of the lien holder;

2. The nature of the lien;
3. The date the lien was created; and
4. The amount of the lien.

(d) An affidavit of affixation shall be signed under penalty of perjury and acknowledged.

(e) The clerk of the circuit court of the county in which the parcel of real property to which a manufactured home is or will be affixed is located:

(1) Shall accept an affidavit of affixation and any attachments for recordation and indexing; and

(2) May charge a reasonable fee for the recordation.

(f) The recordation of an affidavit of affixation does not represent a sale or transfer of real property for the purpose of the collection of any tax or fee charged by the State or any county or municipality.

(g) (1) Immediately after filing an affidavit of affixation with the clerk of the circuit court, the owner of the property to which a manufactured home has been affixed shall send a certified copy of the affidavit and any attachments to the Motor Vehicle Administration.

(2) On receipt of a certified copy of an affidavit of affixation and any attachments under paragraph (1) of this subsection, the Motor Vehicle Administration shall record the affidavit and attachments in the Administration's records.

8B-203.

The Motor Vehicle Administration shall make available records for manufactured homes to attorneys, title insurance producers, and other individuals authorized to conduct a title search.

8B-204.

IF A MANUFACTURED HOME IS LOCATED ON LAND THAT THE OWNER OF THE MANUFACTURED HOME DOES NOT OWN, CONVERSION OF THE MANUFACTURED HOME TO REAL PROPERTY IN ACCORDANCE WITH THIS SUBTITLE DOES NOT AFFECT THE RIGHTS AND DUTIES OF THE RECORD OWNER OF THE LAND.

8B-303.

1 IF A MANUFACTURED HOME IS LOCATED ON LAND THAT THE OWNER OF THE
2 MANUFACTURED HOME DOES NOT OWN, SEVERANCE OF THE MANUFACTURED HOME
3 FROM REAL PROPERTY IN ACCORDANCE WITH THIS SUBTITLE DOES NOT AFFECT
4 THE RIGHTS AND DUTIES OF THE RECORD OWNER OF THE LAND.

5 SUBTITLE 4. SALE OF MANUFACTURED HOUSING COMMUNITIES.

6 8B-401.

7 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (B) "COMMUNITY OWNER" MEANS THE OWNER OF A MANUFACTURED
10 HOUSING COMMUNITY.

11 (C) "HOMEOWNER" MEANS THE OWNER OF A MANUFACTURED HOME WHO
12 LEASES OR RENTS A SITE IN A MANUFACTURED HOUSING COMMUNITY FOR
13 RESIDENTIAL USE.

14 (D) "HOMEOWNERS ORGANIZATION" MEANS AN ORGANIZATION,
15 INCLUDING A COOPERATIVE HOUSING CORPORATION, THAT:

16 (1) REPRESENTS THE INTERESTS OF THE HOMEOWNERS IN A
17 MANUFACTURED HOUSING COMMUNITY;

18 (2) IS OPEN TO ALL HOMEOWNERS IN THE MANUFACTURED HOUSING
19 COMMUNITY; AND

20 (3) IS CONTROLLED BY THE MEMBERS OF THE ORGANIZATION.

21 (E) "MANUFACTURED HOUSING COMMUNITY" MEANS ANY PROPERTY
22 LEASED OR HELD OUT FOR LEASE TO TWO OR MORE OWNERS OF MANUFACTURED
23 HOMES FOR RESIDENTIAL USE.

24 8B-402.

25 THIS SUBTITLE DOES NOT APPLY TO A MANUFACTURED HOUSING COMMUNITY
26 IF:

27 (1) A MORTGAGEE, GRANTEE, OR OTHER SECURED PARTY HAS
28 FORECLOSED ON THE MANUFACTURED HOUSING COMMUNITY AND THE
29 MORTGAGEE, GRANTEE, OR SECURED PARTY IS:

(I) SELLING THE MANUFACTURED HOUSING COMMUNITY AT A FORECLOSURE SALE; OR

(II) SELLING THE MANUFACTURED HOUSING COMMUNITY AFTER BUYING THE MANUFACTURED HOUSING COMMUNITY AT A FORECLOSURE SALE;

(2) THE COMMUNITY OWNER IS SELLING THE MANUFACTURED HOUSING COMMUNITY TO:

(I) A FAMILY MEMBER OF THE COMMUNITY OWNER; OR

(II) A TRUST, THE BENEFICIARIES OF WHICH ARE FAMILY MEMBERS OF THE COMMUNITY OWNER;

(3) THE COMMUNITY OWNER IS A PARTNERSHIP AND THE SALE OR TRANSFER IS TO ONE OR MORE OF THE PARTNERS;

(4) THE CONVEYANCE OF AN INTEREST IN THE MANUFACTURED HOUSING COMMUNITY IS INCIDENTAL TO THE FINANCING OF THE MANUFACTURED HOUSING COMMUNITY;

(5) THE SALE OR TRANSFER OF THE MANUFACTURED HOUSING COMMUNITY IS BETWEEN JOINT TENANTS OR TENANTS IN COMMON; OR

(6) THE SALE OR TRANSFER OF THE MANUFACTURED HOUSING COMMUNITY IS A RESULT OF THE EXERCISE OF THE POWER OF EMINENT DOMAIN.

8B-403.

(A) BEFORE A COMMUNITY OWNER MAY ACCEPT AN OFFER FOR THE SALE OR TRANSFER OF A MANUFACTURED HOUSING COMMUNITY, THE COMMUNITY OWNER SHALL:

(1) PROVIDE NOTICE OF THE TERMS OF THE OFFER TO:

(I) EACH HOMEOWNER IN THE MANUFACTURED HOUSING COMMUNITY; AND

(II) THE CLERK OF THE COURT FOR THE COUNTY IN WHICH THE MANUFACTURED HOUSING COMMUNITY IS LOCATED FOR INCLUSION IN THE LAND RECORDS OF THE COUNTY; AND

1 **(2) PROVIDE THE HOMEOWNERS THE OPPORTUNITY TO PURCHASE**
2 **THE MANUFACTURED HOUSING COMMUNITY IN ACCORDANCE WITH § 8B-404 OF**
3 **THIS SUBTITLE.**

4 **(B) THE NOTICE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION**
5 **SHALL BE SENT BY REGISTERED OR CERTIFIED MAIL AND INCLUDE THE FOLLOWING**
6 **INFORMATION:**

7 **(1) THE PRICE, TERMS, AND CONDITIONS THAT THE COMMUNITY**
8 **OWNER INTENDS TO ACCEPT FOR THE SALE OR TRANSFER OF THE MANUFACTURED**
9 **HOUSING COMMUNITY;**

10 **(2) A COPY OF ANY PENDING PURCHASE OR SALES AGREEMENT**
11 **SIGNED BY THE PARTIES; AND**

12 **(3) A STATEMENT INDICATING THE DEADLINE BY WHICH A**
13 **HOMEOWNERS ORGANIZATION OR OTHER AGENT OF THE HOMEOWNERS IS**
14 **REQUIRED TO:**

15 **(I) NOTIFY THE COMMUNITY OWNER OF ITS INTEREST IN**
16 **PURCHASING THE MANUFACTURED HOUSING COMMUNITY; AND**

17 **(II) SUBMIT A PROPOSED SALES AGREEMENT.**

18 **8B-404.**

19 **(A) ON NOTICE OF THE INTENT TO SELL OR TRANSFER A MANUFACTURED**
20 **HOUSING COMMUNITY IN ACCORDANCE WITH § 8B-403 OF THIS SUBTITLE,**
21 **HOMEOWNERS, THROUGH EITHER A HOMEOWNERS ORGANIZATION OR AGENT, MAY**
22 **OFFER TO PURCHASE THE MANUFACTURED HOUSING COMMUNITY BY:**

23 **(1) NOTIFYING THE COMMUNITY OWNER OF THE INTENT TO**
24 **PURCHASE THE MANUFACTURED HOUSING COMMUNITY; AND**

25 **(2) SUBMITTING TO THE COMMUNITY OWNER A PROPOSED**
26 **AGREEMENT TO PURCHASE THE MANUFACTURED HOUSING COMMUNITY THAT**
27 **INCLUDES TERMS SUBSTANTIALLY SIMILAR TO THE TERMS INCLUDED IN THE SALES**
28 **NOTICE PROVIDED UNDER § 8B-403 OF THIS SUBTITLE.**

29 **(B) A HOMEOWNERS ORGANIZATION OR AGENT SHALL SUBMIT THE NOTICE**
30 **AND PROPOSED AGREEMENT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION**
31 **BY REGISTERED OR CERTIFIED MAIL WITHIN 90 DAYS AFTER THE DATE ON WHICH**

1 THE HOMEOWNERS ORGANIZATION OR AGENT RECEIVED THE SALES NOTICE FROM
2 THE COMMUNITY OWNER.

3 (C) A HOMEOWNERS ORGANIZATION OR AGENT SHALL HAVE AT LEAST 150
4 DAYS AFTER THE DATE ON WHICH THE HOMEOWNERS ORGANIZATION OR AGENT
5 RECEIVED THE SALES NOTICE FROM THE COMMUNITY OWNER TO:

6 (1) OBTAIN THE NECESSARY FINANCING OR GUARANTEES TO
7 PURCHASE THE MANUFACTURED HOUSING COMMUNITY; AND

8 (2) CLOSE ON THE PURCHASE OF THE MANUFACTURED HOUSING
9 COMMUNITY.

10 8B-405.

11 (A) (1) WITHIN 10 DAYS AFTER THE DATE ON WHICH THE COMMUNITY
12 OWNER SUBMITS THE SALES NOTICE REQUIRED UNDER § 8B-403 OF THIS SUBTITLE,
13 THE COMMUNITY OWNER SHALL MAKE AVAILABLE TO THE HOMEOWNERS
14 ORGANIZATION THE SAME INFORMATION THAT THE COMMUNITY OWNER PROVIDED
15 OR WOULD HAVE PROVIDED TO OTHER PROSPECTIVE PURCHASERS.

16 (2) IN ADDITION TO THE INFORMATION MADE AVAILABLE UNDER
17 PARAGRAPH (1) OF THIS SUBSECTION, A COMMUNITY OWNER SHALL PROVIDE ANY
18 ADDITIONAL INFORMATION REQUESTED BY A PROSPECTIVE LENDER OF THE
19 HOMEOWNERS ORGANIZATION.

20 (B) THE DEADLINE BY WHICH THE HOMEOWNERS ORGANIZATION OR AGENT
21 MUST SUBMIT AN OFFER OR NOTICE OF INTENT TO PURCHASE A MANUFACTURED
22 HOUSING COMMUNITY UNDER § 8B-404 OF THIS SUBTITLE SHALL BE EXTENDED BY:

23 (1) EACH DAY THAT THE COMMUNITY OWNER FAILS TO SUPPLY THE
24 INFORMATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION; AND

25 (2) EACH DAY THAT ANY LITIGATION INVOLVING THE SALE OF THE
26 MANUFACTURED HOUSING COMMUNITY OR LITIGATION AFFECTING THE
27 MARKETABILITY OF THE TITLE OF THE MANUFACTURED HOUSING COMMUNITY IS
28 PENDING.

29 (C) ANY AGREEMENT THAT PURPORTS TO LIMIT A HOMEOWNER'S ABILITY
30 TO ACQUIRE INFORMATION ABOUT THE LISTING OR OFFER FOR SALE OF A
31 MANUFACTURED HOUSING COMMUNITY THAT WOULD OTHERWISE BE AVAILABLE TO
32 NONRESIDENT INVESTORS SHALL BE VOID AS AGAINST PUBLIC POLICY.

8B-406.

IF THE HOMEOWNERS ORGANIZATION MAKES AN OFFER TO PURCHASE THE MANUFACTURED HOUSING COMMUNITY IN ACCORDANCE WITH § 8B-405 OF THIS SUBTITLE, THE COMMUNITY OWNER SHALL:

(1) CONSIDER THE PURCHASE OFFER; AND

(2) IF APPLICABLE, NEGOTIATE WITH THE HOMEOWNERS ORGANIZATION IN GOOD FAITH.

8B-407.

THE REQUIREMENTS OF THIS SUBTITLE SHALL APPLY SEPARATELY TO EACH SUBSTANTIALLY DIFFERENT OFFER TO SELL OR TO PURCHASE A MANUFACTURED HOUSING COMMUNITY.

8B-408.

(A) A COMMUNITY OWNER MAY RECORD IN THE LAND RECORDS OF THE COUNTY IN WHICH THE MANUFACTURED HOUSING COMMUNITY IS LOCATED AN AFFIDAVIT CERTIFYING THAT:

(1) THE COMMUNITY OWNER IS IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBTITLE; OR

(2) THE SALE OR TRANSFER OF THE MANUFACTURED HOUSING COMMUNITY IS EXEMPT FROM THE REQUIREMENTS OF THIS SUBTITLE UNDER § 8B-402 OF THIS SUBTITLE.

(B) AN AFFIDAVIT FILED IN ACCORDANCE WITH THIS SECTION SHALL BE PRESUMPTIVE EVIDENCE OF COMPLIANCE FOR PURPOSES OF GOOD TITLE IN THE HANDS OF A BONA FIDE PURCHASER.

(C) IF A HOMEOWNERS ORGANIZATION MAKES AN OFFER TO PURCHASE A MANUFACTURED HOUSING COMMUNITY IN ACCORDANCE WITH THIS SUBTITLE, THE HOMEOWNERS ORGANIZATION MAY RECORD NOTICE OF THE OFFER IN THE LAND RECORDS OF THE COUNTY IN WHICH THE MANUFACTURED HOUSING COMMUNITY IS LOCATED.

8B-409.

1 **(A) IF A COMMUNITY OWNER FAILS TO COMPLY WITH THE REQUIREMENTS**
2 **OF THIS SUBTITLE, THE COMMUNITY OWNER SHALL BE LIABLE TO THE**
3 **HOMEOWNERS ORGANIZATION IN THE AMOUNT OF \$50,000 OR 50% OF THE GAIN**
4 **REALIZED BY THE COMMUNITY OWNER AS A RESULT OF THE SALE OF THE**
5 **COMMUNITY, WHICHEVER IS GREATER.**

6 **(B) FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS SUBTITLE IS**
7 **AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF**
8 **THE COMMERCIAL LAW ARTICLE AND IS SUBJECT TO ALL OF THE PROVISIONS OF**
9 **THAT TITLE EXCEPT § 13-411 OF THE COMMERCIAL LAW ARTICLE.**

10 **(C) (1) A HOMEOWNERS ORGANIZATION OR HOMEOWNER MAY BRING A**
11 **CIVIL ACTION TO ENFORCE THIS SUBTITLE.**

12 **(2) IF THE COURT FINDS IN FAVOR OF THE HOMEOWNERS**
13 **ORGANIZATION OR HOMEOWNER, THE HOMEOWNERS ORGANIZATION OR**
14 **HOMEOWNER MAY BE AWARDED:**

15 **(I) INJUNCTIVE OR DECLARATORY RELIEF;**

16 **(II) ACTUAL DAMAGES; AND**

17 **(III) REASONABLE ATTORNEY'S FEES AND COURT COSTS.**

18 **(3) THE REMEDIES SET FORTH IN THIS SUBSECTION ARE NOT**
19 **EXCLUSIVE.**

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2022.