

## Underwriting Bulletin: UNMD-2023-009

Date: October 10, 2023  
To: All Maryland Agents  
From: Underwriting Department  
RE: **Maryland Legislative Update for 2023**

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Here is a summary of legislative changes made by the 2023 Maryland General Assembly relating to real property:

### I. These laws have an effective date of July 1, 2023

#### **HB 0021: TAX SALE NOTICES AND PAYOFF AMOUNT FOR REDEMPTION**

Requiring that the holder of a certificate of sale include the e-mail address of certain persons in certain notices required to be sent to certain persons with an interest in a property that is sold at a tax sale; authorizing certain persons with an interest in owner-occupied property sold at a tax sale to request the current payoff amount to redeem the property; providing that the payoff amount to redeem the property provided by the holder of the certificate to the owner of the property is valid for 30 days; etc.

#### **HB 0057: TAX SALE REQUIREMENT TO SELL**

Repealing certain limitations on the authority of certain local governments to set the time by which a property with taxes in arrears must be sold by the tax collector.

### II. These laws have an effective date of October 1, 2023:

#### **SB 0792: ESTATES AND TRUSTS – REGISTERED DOMESTIC PARTNERSHIPS**

Establishing requirements for the registration and termination of domestic partnerships with the register of wills; repealing provisions on legitimacy and illegitimacy of children and providing for the parentage of a child born or conceived by registered domestic partners; requiring the register of wills to recognize as domestic partnerships relationships established under the laws of other jurisdictions if the laws are substantially similar to the provisions of the Act; etc.

#### **SB 694: DEPARTMENT OF NATURAL RESOURCES REAL PROPERTY – EXCHANGE WITH PRIVATE REAL PROPERTY**

Authorizing the State to exchange real property owned by the State for the use and benefit of the Department of Natural Resources with private real property under certain circumstances.

#### **SB 0335 Real Property - Unlawfully Restrictive Covenants - Modification by Counties or Municipalities**

Authorizing a county or municipality to execute and record a restrictive covenant modification to an unlawfully restrictive covenant for a property within the boundaries of the county or municipality after providing persons with an ownership interest in the property with 30 days' written notice; providing that persons with an ownership interest in property that is subject to an unlawfully restrictive covenant may decline action by a county or municipality to execute and record a restrictive covenant with certain notice; etc.

#### **SB 851 Maryland General and Limited Power of Attorney Act - Alterations**

Altering a certain statutory form for a general power of attorney by including certain provisions informing the principal and agent of certain matters, granting general authority with respect to tangible personal property and trusts and estates, authorizing the principal to grant the agent certain specific powers relating to successor agents, compensation, gifts or transfers, and opening joint accounts and beneficiary designations, and clarifying the force and effect of the form; etc.

The most significant changes include: **1. Agent's ability to appoint a successor agent.** The 2023 update now allows the principal to opt-in and grants the last serving agent the authority to appoint successor agent(s).

**2. Compensation for agent.** The MD Statutory POA 2023 now requires the principal to expressly state whether the agent is entitled to compensation. The principal is then required to indicate if the agent is entitled to "reasonable" compensation or a specific amount if you decide to opt-in to compensation for your agent.

**3. Gifting.** Gifting is an important power to grant to your agent as a way to give someone else the ability to spend down assets to qualify for Medicaid benefits in the future or reduce your estate and gift tax. These provisions will be included in the MD Statutory

POA 2023. **4. Joint Accounts.** The MD Statutory POA 2023 now allows the principal to opt-in and allow the agent to create joint accounts with others or the agent.

**HB 0092 Ground Leases - Collection of Rent, Interest, Fees, and Other Expenses - Registration Requirements**

Establishing that ground leases or amendments that are not posted on the State Department of Assessments and Taxation's website are not considered registered or amended; prohibiting a ground lease holder from collecting or attempting to collect rent, late fees, interest, collection costs, and other expenses related to a ground lease unless the ground lease is registered with the Department; etc.

**HB 0093 Residential Ground Leases - Redemption and Extinguishment - Requirements**

Repealing the prohibition against a tenant who is seeking to redeem or extinguish ground rent providing certain documentation and payments to the State Department of Assessments and Taxation earlier than 90 days after an application for redemption or extinguishment has been posted on the Department's website.

**HB 0118 Ground Leases – Notices and Billing – Forms and Requirements**

Prohibiting a leasehold tenant of an unregistered ground lease from being required to hold more than 3 years of ground rent in escrow; requiring a ground lease holder to mail certain notices or bills to a leasehold tenant in a certain manner under certain circumstances; requiring the State Department of Assessments and Taxation to make available on its website the form a ground lease holder must use to provide a leasehold tenant bills or notices; etc.

**HB 0235 Tax Sales - Owner-Occupied Property - Foreclosure, Notice, and Reimbursement of Expenses**

Prohibiting in all counties, rather than Baltimore City only, a holder of a certificate of sale from filing a complaint to foreclose the right of redemption for owner-occupied residential property until 9 months from the date of sale; prohibiting in all counties, rather than Baltimore City only, a certain notice from being sent to certain persons with an interest in owner-occupied residential property sold at tax sale until 7 months after the date of sale; etc.

**HB 1235 Real Estate - Real Estate Brokerage Services and Termination of Residential Real Estate Contracts (The Anthony Moorman Act)**

Requiring a real estate broker or an escrow agent, if a purchaser terminates a certain transaction under certain circumstances, to distribute trust money to the purchaser within 30 days after a certain written notice of the termination is sent; requiring a holder of trust money who makes a certain distribution to notify the seller and purchaser of the distribution within a certain period of time, subject to a certain exception; etc.

**III. These laws have an effective date of July 1, 2024:**

**HB 0371 Recordation Tax - Indemnity Mortgage Exemption - Threshold Amount**

Altering the threshold amount for certain indemnity mortgage transactions that are exempt from the recordation tax from less than \$3,000,000 to less than \$12,500,000; and applying the Act to instruments of writing recorded on or after July 1, 2024.

If you have additional questions, please contact your friendly First National Title Insurance Co. underwriter.

*This Underwriting Bulletin becomes a part of the principles and practices with which you are to comply under the terms of your Underwriting Agreement with First National Title Insurance Company. Should the content of this bulletin address the closing and escrow function, this information should be considered a directive and part of the principles and practices if non-compliance would result in liability to FNTI under either the insured closing service letter or policy of title insurance notwithstanding that the Underwriting Agreement does not include the closing and escrow functions of your agency.*