

WELCOME FELLOW REAL ESTATE PROFESSIONALS ...

## **MYLESTITLE'S 4<sup>TH</sup> QUARTER 2024**

*Advisory Council Breakfast & Seminar*

*Hayfields Country Club: Breakfast, Networking & Presentations*

November 21, 2024 from 7:30 am to 9:00 am

*In association with and sponsored by:  
Myles L. Lichtenberg, Esq. & MylesTitle*

### **MYLESTITLE ADVISORY COUNCIL TOPICS & PANELISTS**

#### **Legal Considerations in Commercial Real Estate Joint Ventures and Partnerships**

*Legal structures, risk management strategies, and best practices  
for forming and managing successful joint ventures and  
partnerships in commercial  
real estate projects.*

PRESENTED BY:

**RYAN BAILEY, ESQ. GENERAL COUNSEL**  
MCB Real Estate, LLC

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#### **Navigating the Currents: Real Estate Lending in a Shifting Financial Landscape**

*Unveiling sector-specific trends,  
decoding bank conservatism, and charting a  
course through interest rate turbulence.*

PRESENTED BY:

**ERIC BALDERSON, ASSIST. VICE PRESIDENT,**  
INVESTMENT REAL ESTATE  
First National Bank

LEGISLATIVE UPDATE PRESENTED BY:

**MYLES LICHTENBERG, ESQ.**  
*Managing Principal, MylesTitle Law  
Office of Myles L. Lichtenberg, P.A.*

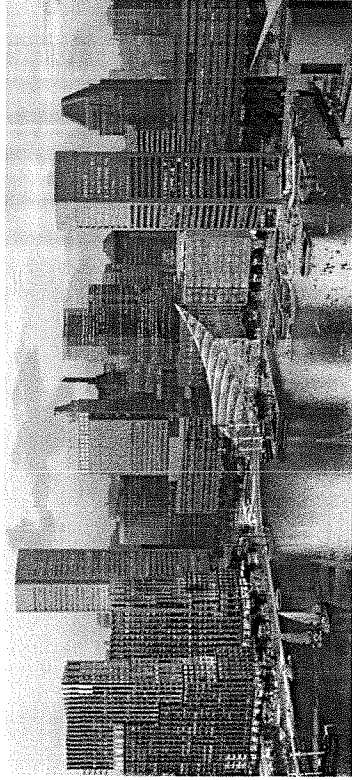
Visit us online at [www.MylesTitle.com](http://www.MylesTitle.com)  
Contact us, directly at: 410.458.8975, Anytime  
[Myles@MylesTitle.com](mailto:Myles@MylesTitle.com)

**JOINT  
VENTURES IN  
COMMERCIAL  
REAL ESTATE  
INVESTMENT**



**Ryan M. Bailey**  
Senior Managing Director &  
General Counsel  
**MCB Real Estate, LLC**

**November 21, 2024**



# Background

- MCB Real Estate is a privately-held, vertically integrated commercial real estate investment, development and management firm based in Baltimore, MD.
- Operate across all major asset classes (retail, industrial, multifamily) and a sub-classes (medical office/life sciences).
- Operate across all strategies (core/core+, value-add, ground-up development).
- MCB also makes real estate investments via preferred equity, distressed debt, operating companies, public companies, etc.
- Primarily / historically operate as a "sponsor".
- Partner with public/private REITS, pension funds, investment banks, hedge funds, family offices, HNWI's and we raise syndications.

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# Joint Ventures

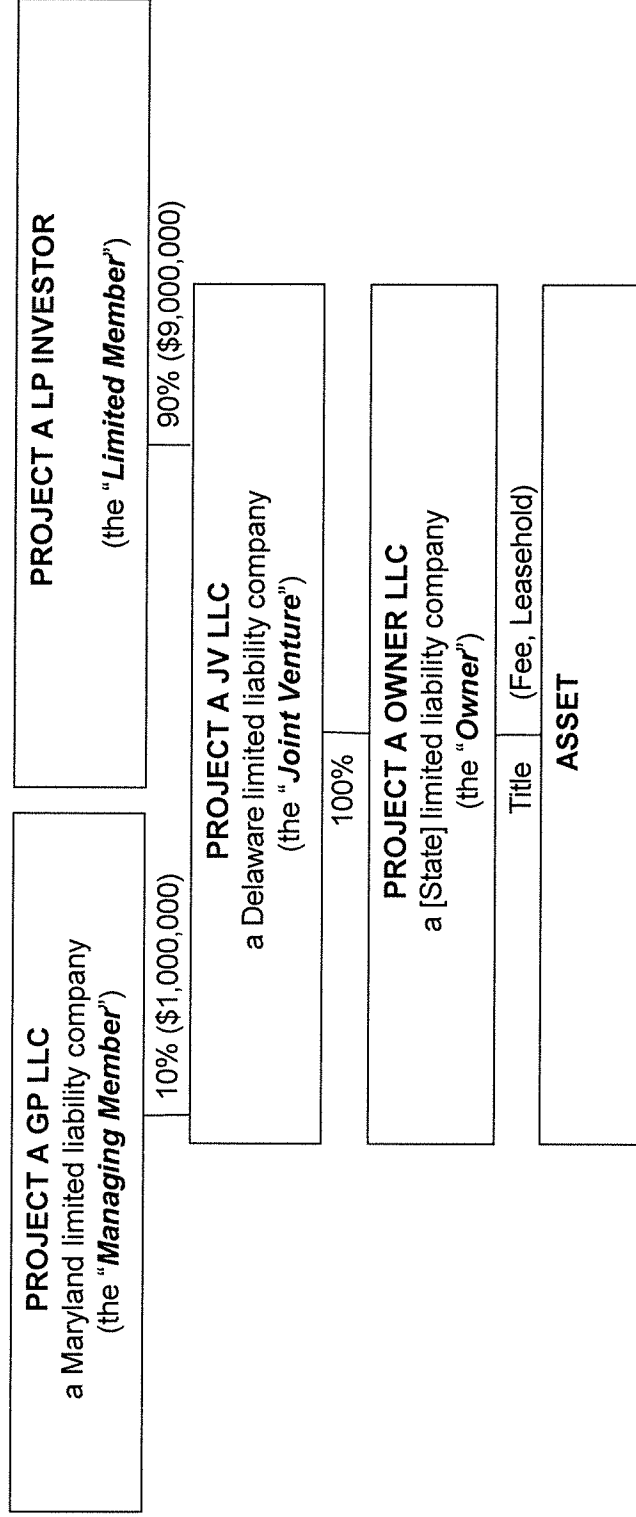
- **Legal Entity vs. Contractual**
  - Limited Liability Company, Limited Partnership
  - Pursuit Cost Agreement, TIC Agreement
- **Limited Partners or “LP(s)”**
  - Majority Capital Investor
- **General Partner or “GP”**
  - Sponsor/Operator
  - “Co-GP” = two or more GPs

The logo for MCB REAL ESTATE features the letters 'MCB' in a large, bold, serif font. Below 'MCB', the words 'REAL ESTATE' are written in a smaller, all-caps, sans-serif font. The logo is positioned on the right side of a dark, textured rectangular area that occupies the top half of the page.

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# Standard 90/10 Joint Venture

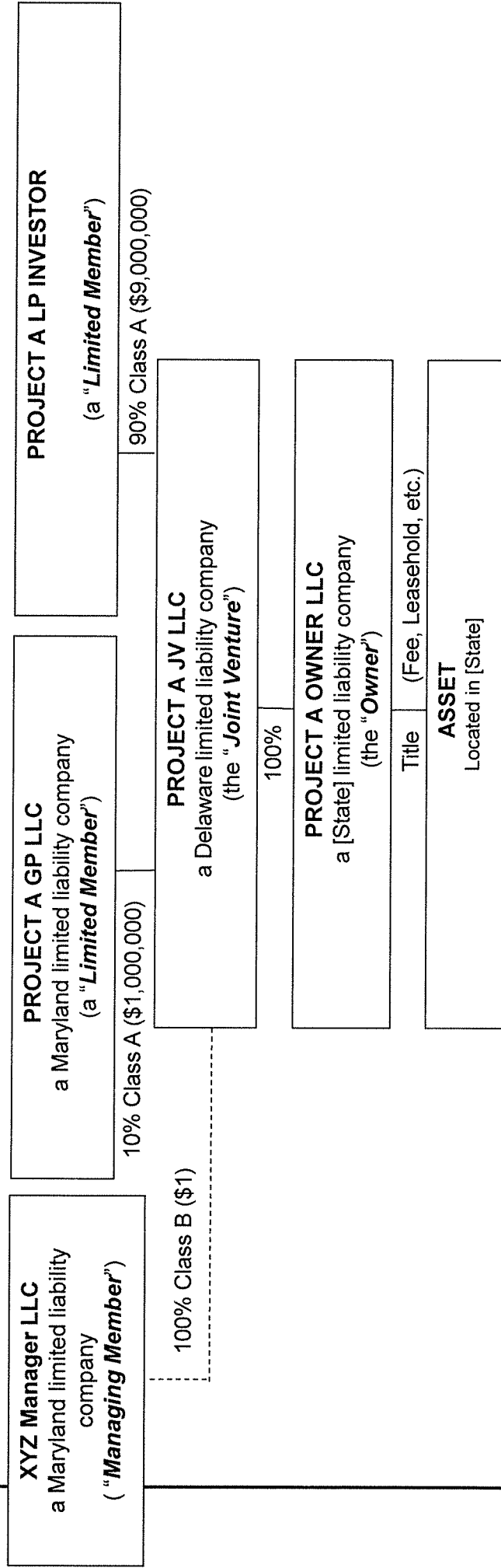
\$10m equity requirement





# Variation of 90/10 Joint Venture

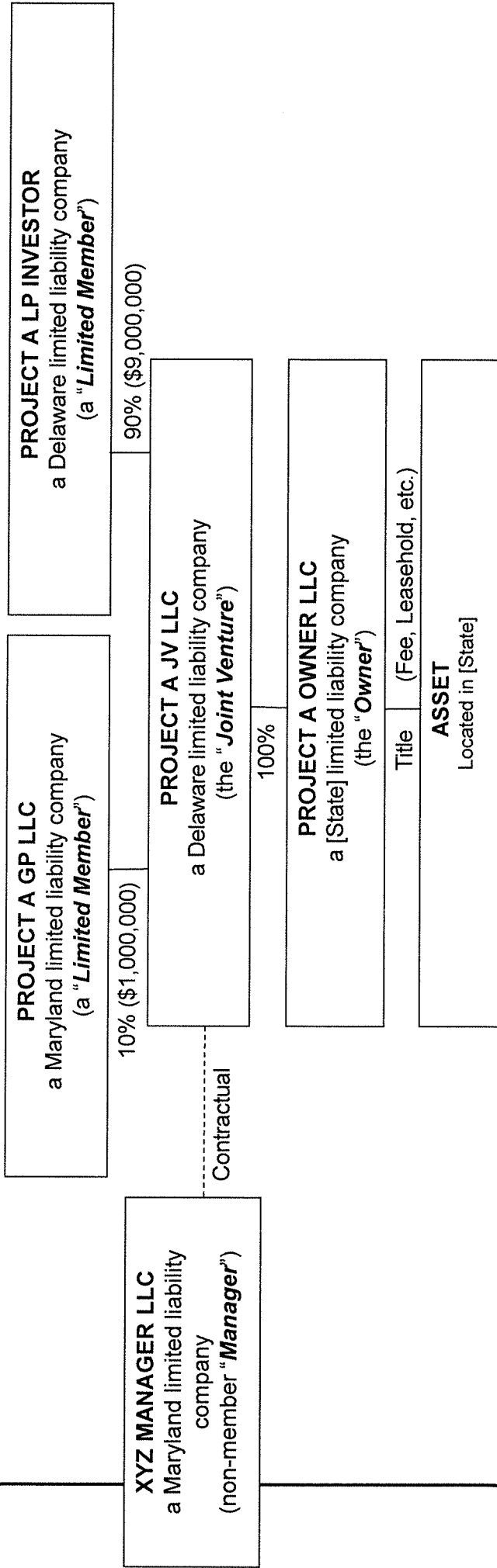
\$10m equity requirement





# Variation of 90/10 Joint Venture

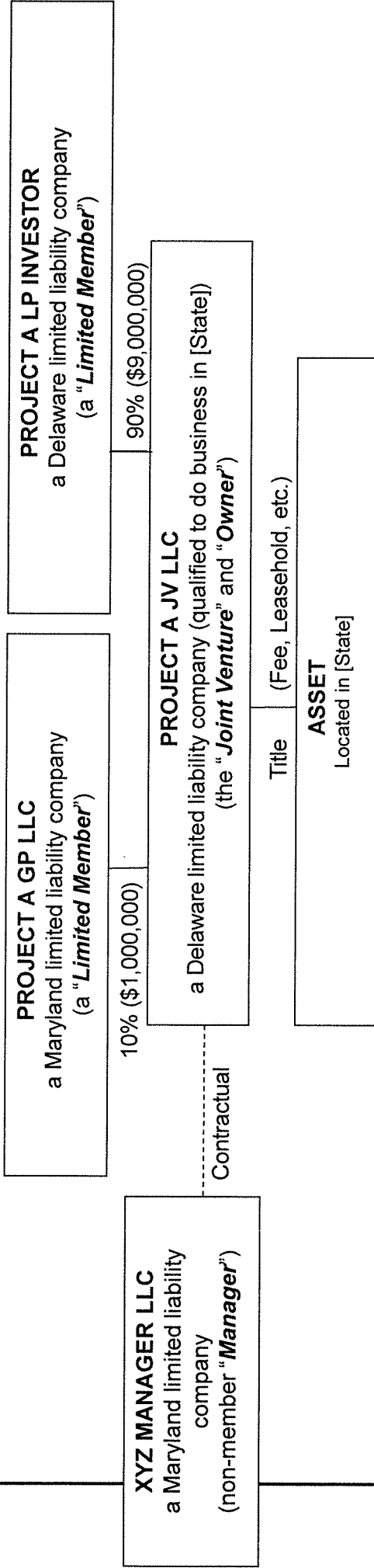
\$10m equity requirement





# Variation of 90/10 Joint Venture

\$10m equity requirement

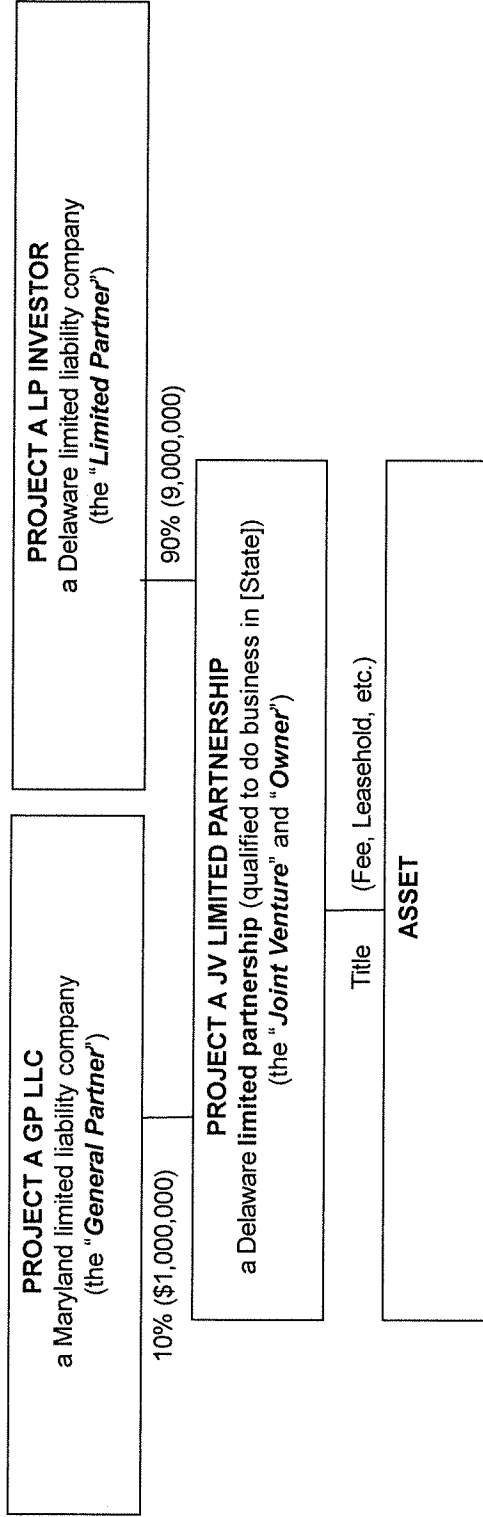






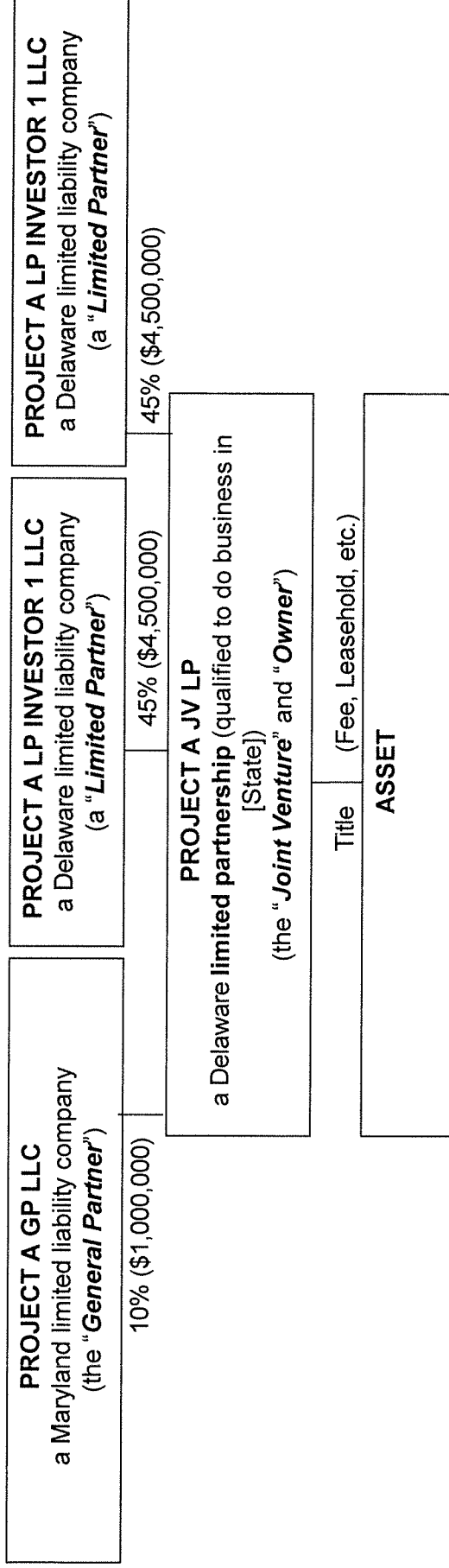
# Variation of Standard 90/10 Joint Venture

\$10m equity requirement



# Variations of Standard 90/10 Joint Venture

\$10m equity requirement



# Key Provisions

- **Distributions.**
  - Net cash from operations / net capital proceeds
  - Waterfall / promote
  - Crystallization
- **Fees**
  - Acquisition, Disposition, Guaranty
  - Construction / Development Management
  - Property Management
- **Capital Requirements**
- **Control**
  - Managing Member; Manager
  - Major Decisions; Protective Provisions
- **Liquidity**
  - Buy-Sell; Put-Call; Tag-along; Drag-along
  - Defined time horizon for dissolution
- **Transfers**
  - Note: what flexibility you need will depend on how your holdco/investor is structured; will need to be married up to restrictions on transfers in loan docs.



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# Joint Venture (90/10) – “Project A”

\$10m equity requirement



General Partner

- Fees
- Promote

**PROJECT A GP LLC**  
a Maryland limited liability company  
(the “*Managing Member*”)

10% (\$1,000,000)  
100% Promote  
100% Fees

**PROJECT A LP INVESTOR**  
a Delaware limited liability company  
(the “*Limited Member*”)

90% (9,000,000)

Limited Partner

- Major Decisions
- Preferred Return / Return Hurdle

**PROJECT A JV LLC**  
a Delaware limited liability company  
(the “*Joint Venture*”)

100%

**PROJECT A OWNER LLC**  
a Maryland limited liability company  
(the “*Owner*”)

Title (Fee, Leasehold, Noteholder, Stock, etc.)

**ASSET**  
Multifamily Apartments; Maryland



# Joint Venture: 90/10 (Co-GP (90/10)) – “Project B”

\$50m equity requirement

Co-GP (Investor)

- Fees
- Promote
- Major Decisions

PROJECT B CO-GP INVESTOR LLC  
a Delaware limited liability company  
("Managing Member")

90% (\$4,500,000)  
50% Promote  
80% Fees

Co-GP (Operator)

- Fees
- Promote
- "Administrative Manager"

OPERATOR LLC

10% (\$500,000)

PROJECT B CO-GP LLC  
a Delaware limited liability company  
("Managing Member")

10% (\$5,000,000)  
100% Promote  
100% Fees

Limited Partner

- Major Decisions
- For-Cause Removal
- Preferred Return

PROJECT B LP LLC  
a Delaware limited liability company

90% (\$45,000,000)

PROJECT B JV LLC  
a Delaware limited liability company

100% (\$50,000,000)

PROJECT B OWNER LLC  
a Wisconsin limited liability company

Title (Fee)

**Lombardi Apartments**  
412 Packers Drive  
Green Bay, Wisconsin

# Joint Venture: 80/20 (LP Syndication) – “Project C”

## \$50m equity requirement



### General Investors

- Fees
- Promote
- Permitted Transfers
- Control

**PROJECT C INVESTOR LLC**  
a Maryland limited liability company  
(the “*Managing Member*”)

50% Class A Units (Phase 1)  
(\$10,000,000)

Diluted to 10% Class A Units  
(upon Phase 2 raise)

100% Class B Units (Promote &  
Control)

**PROJECT C JV LLC**  
a Maryland limited liability company  
(the “*Joint Venture*”)

100%

**PROJECT C OWNER LLC**  
a Maryland limited liability company  
(the “*Owner*” and “*Borrower*”)

Fee

**Multifamily Development**  
Maryland

\$28,000,000  
Construction Loan

### Limited Investors

- Protective Provisions
- Preferred Return / IRR Hurdle

**Phase 1 Raise: \$10,000,00 – 506(b) [20 Investors]**  
50% Class A Units (diluted to 20%)  
Entirely Passive

**Phase 2 Raise: \$30,000,000 – 506(c) [50 Investors]**  
60% Class A Units  
Entirely Passive



# Other Considerations

- **Liquidity**
  - Buy-Sell after lockout period / major decision deadlock
  - Tag-along and drag-along
- **Tax Distributions**
  - In the event you are allocated phantom income, the company will distribute cash (to the extent available) to you in an amount equal to your tax liability.
- **Guaranties & Cross-Indemnity Provisions**
  - To the extent one party is guarantying the loan to the JV (or its subsidiary), this apportions liability according to percentage interest and/or fault.
- **CTA (Corporate Transparency Act) Compliance**
  - Indemnity for penalties or fines imposed on JV
  - FinCEN ID Requirement (no PII)
  - Keep your FinCEN IDs updated!
- **Permitted Transfers**
  - Will depend largely on the deal and on your capital source
  - Mirror up when negotiating loan documents



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# Sample Provision: Fees



## 1. Fees.

- (a) Acquisition Fee. The Managing Member or its designee(s) shall coordinate and manage the acquisition of the Property pursuant to the Purchase Agreement, and for such services the Company shall pay an acquisition fee (the "Acquisition Fee") equal to one percent (1.0%) of the purchase price paid pursuant to the Purchase Agreement, which Acquisition Fee shall be paid to the Managing Member or its designee upon the Subsidiary's closing under the Purchase Agreement.
- (b) Asset Management Fee. The Company shall pay Managing Member or its designee an annual asset management fee equal to one percent (1.0%) of the aggregate Capital Contributions made to the Company (less any distributions) (the "Asset Management Fee"). The Asset Management Fee shall be paid quarterly in arrears.
- (c) Financing Fee. The Company shall pay a fee equal to one percent (1.00%) of the gross loan proceeds on any loan sourced by Managing Member or its Affiliates for the Project; provided, however, that if a third-party broker engaged by a Project Entity is also due a fee in connection with such financing, the fee shall be reduced by such amount payable to such third-party broker.
- (d) Construction Management Fee. Following acquisition of the Property by the Subsidiary, ServiceCo, as the designee of the Managing Member, on behalf of the Company, shall advise the Project Entities on which contractors and vendors to engage and shall supervise construction of the Project. In exchange for such services, the Company shall pay the ServiceCo or its designee(s) a construction management fee equal to five percent (5.0%) of Hard Costs and Soft Costs (the "Construction Management Fee"). The Construction Management Fee shall not be treated as a distribution to the Managing Member or any other Member of the Company.
- (e) Development Fee. ServiceCo, as designee of the Managing Member, on behalf of the Company, shall provide services in connection with the management and development of the Project. In exchange for such services, the Company shall pay the Managing Member or its designee(s) a development fee equal to five percent (5.0%) of all Hard Costs and Soft Costs incurred (but excluding the any financing costs and the purchase price of the Property) (the "Development Fee"). To the extent the Development Fee is payable pursuant to a separate agreement between an Affiliate of the Managing Member and a Project Entity, no Development Fee shall be payable hereunder.
- (f) Leasing Fee. The Company shall pay to ServiceCo, as designee of the Managing Member, a leasing fee in connection with each lease entered into at the Project, equal to a market rate leasing commission as reasonable determined by the Managing Member (the "Leasing Fee"); provided however, that to the extent any third party brokers are due a commission in connection with any lease, the Leasing Fee shall be reduced by such amounts payable to such third party broker(s). By way of illustration and not limitation, if a market rate leasing commission is 6% of the base rental due under such lease and a tenant's representative broker is entitled to 3% of such base rental, then ServiceCo would be entitled to a Leasing Fee of 3% of such base rental. To the extent such Leasing Fees are set forth in and payable under the Property Management Agreement to the Property Manager (or the Property Manager's designee), such Leasing Fee shall not also be payable hereunder.
- (g) Property Management Fee. The Company and the Property Manager shall enter into a Property Management Agreement for the management and operation of the property (the "Property Management Agreement"). The Company shall pay to the Property Manager a property management fee as set forth in the Property Management Agreement (the "Property Management Fee"), which shall be four (4%) of gross revenue.
- (h) Net Subsidy Fee. The Company shall pay to the Managing Member or its designee(s) any Net Subsidy Fee received in connection with Project subsidies.
- (i) Guaranty Fees. Should any Affiliate of the Managing Member furnish a guaranty required by any loan that a Project Entity obtains for the Project or that is otherwise secured by the Property (excluding the Acquisition Loan) (each, a "Guarantor"), such Guarantor or its designee(s) shall be entitled to a fee, to be reasonably determined by the Managing Member.

# Sample Provision: Distributions “Preferred Return” & Promote



1. Distributions. After taking into account all distributions to the Members pursuant to (Tax Distributions Section), and subject to any restrictions in any agreements for borrowed money, all distributions of Distributable Cash shall be allocated among and made to the Members, in amounts and at times as determined by the Managing Member, as follows:

- (a) First, to the Members, pro rata in proportion to and in accordance with their respective Percentage Interests, until all Members have realized a cumulative return equal to an Internal Rate of Return of twelve percent (12.0%) (as reasonably determined by the Managing Member) and the Major Limited Partner has realized at least a 2.0x Equity Multiple on its aggregate Capital Contributions;
- (b) Second, (i) twenty percent (20%) to the Managing Member and (ii) eighty percent (80.0%) to the Members, pro rata in proportion to and in accordance with their respective Percentage Interests, until all Members have realized a cumulative return equal to an Internal Rate of Return of eighteen percent (18.0%) (as reasonably determined by the Managing Member); and
- (c) Thereafter, (i) thirty percent (30%) to the Managing Member and (ii) seventy percent (70.0%) to the Members, pro rata in proportion to and in accordance with their respective Percentage Interests.

## 1. Distributions of Cash Flow

Within thirty (30) days after the end of each calendar quarter, the Partnership shall distribute to the Partners the Cash Flow with respect to such quarter in the following order of priority (except as provided in Section 3.1(c)) [For Cause Removal]:

- (a) First, *pro rata*, in accordance with, and in payment of, the respective Default Preferred Return Balances of the Partners, if any, until their respective Default Preferred Return Balances have been reduced to zero; and;
- (b) Second, *pro rata*, in proportion to, and in payment of, the respective Default Capital Contribution Balances of the Partners, if any, until their respective Default Capital Contribution Balances have been reduced to zero; and
- (c) Thereafter, to the Partners, *pro rata*, in accordance with their respective Percentage Interests.

## 1. Distributions of Capital Event Proceeds and Proceeds of Liquidation

Capital Event Proceeds and proceeds of Liquidation of the Partnership shall be distributed to the Partners promptly upon receipt of the same by the Partnership, with all such distributions to be made in the following order of priority (except as provided in Section 3.1(c)) [For Cause Removal]:

- (a) First, *pro rata*, in accordance with, and in payment of, the respective Default Preferred Return Balances of the Partners, if any, until their respective Default Preferred Return Balances have been reduced to zero; and;
- (b) Second, *pro rata*, in proportion to, and in payment of, the respective Default Capital Contribution Balances of the Partners, if any, until their respective Default Capital Contribution Balances have been reduced to zero;
- (c) Third, to the Partners, *pro rata*, in accordance with their respective Percentage Interests, until such time as each Partner receives a twelve percent (12%) Internal Rate of Return
- (d) Fourth, to the Partners, *pro rata*, in accordance with their respective First Adjusted Percentage Interests, until such time as each Partner receives a fifteen percent (15%) Internal Rate of Return;
- (e) Fifth, to the Partners, *pro rata*, in accordance with their respective Second Adjusted Percentage Interests, until such time as each Partner receives a seventeen percent (17%) Internal Rate of Return; and
- (f) Thereafter, to the Partners, *pro rata*, in accordance with their respective Third Adjusted Percentage Interests.

# Sample Provision: Capital Contributions



## 1. Capital Account Balances and Capital Contributions.

(a) Upon the latter of the execution hereof or the Closing Date, the Members shall each make initial Capital Contributions in cash in the respective amounts set forth on Exhibit A, and their respective initial Capital Account balances and Percentage Interests shall be as set forth on Exhibit A attached hereto and made a part of this Agreement. The Managing Member shall update Exhibit A as of the Closing Date (and from time to time thereafter) to reflect the Capital Contributions of each Member.

(b) The ongoing Capital Account balances and Unreturned Capital balances of each of the Members shall be reflected in the books and records of the Company. Each Member admitted after the date hereof in accordance with the terms of this Agreement shall make such Capital Contributions in such form and amount as is determined by the Managing Member.

(c) If (i) the approved Annual Budget calls for additional Capital Contributions of the Members beyond the amounts set forth in Section 1(a) and any amounts previously contributed under this 0 or (ii) the Managing Member determines that the Company requires additional Capital Contributions for the operation of the Company and its business (including without limitation for the Project) or for any other purpose authorized under this Agreement, the Managing Member shall make a call for additional Capital Contributions from the Members and such additional Capital Contributions shall be made by all Members, pro rata in proportion to and in accordance with their then respective Percentage Interests.

(d) To the extent a Member (a "Non-Contributing Member") fails to make a Capital Contribution pursuant to this Section 1 (an "Unfunded Capital Contribution"), then the other Members (each a "Contributing Member") shall have the right to advance directly to the Company the amount of the Unfunded Capital Contribution of the Non-Contributing Member as a non-recourse loan from the Contributing Member to Non-Contributing Member (a "Defaulting Member Loan"), which Defaulting Member Loan shall accrue interest at a quarterly compounding rate of interest equal 15% per annum.

# Sample Provision: Management

## Non-Member Manager



### 1. Management.

- (a) The manager of the Company (the “Manager”) shall have the exclusive right to manage the business of the Company and shall have the exclusive authority to make all decisions on behalf of the Company, subject to the terms of this Agreement. Any contract or other document related to the Company may be signed by the Manager and no other signatures shall be required. The Manager has specific authority to confess a judgment against the Company in connection with any financing by the Company. XYZ Manager LLC, a Maryland limited liability company, shall be the Manager.
- (b) The Manager may appoint such persons as officers of the Company (as may be appointed, the “**Officers**” and individually, an “**Officer**”), and such Officers shall have the duties as may be delegated and/or approved by the Manager. The Officers shall serve subject to the direction of the Manager. No compensation shall be payable to any Officer or employee of the Company. The Manager may remove any Officer or employee at any time. The Manager hereby appoints the following Officer: Ryan M. Bailey, President. Each Officer shall be an “Authorized Signatory” of the Company and the Manager hereby grants the Officers the power to sign on behalf of and bind the Company. Subject to the Act, the Manager hereby authorizes and directs the Officers to do any and all acts necessary, convenient or incidental to or for the furtherance of the purpose and business of the Company, and the Officer with the title of President shall have the full power and authority vested in the Manager to conduct and manage the business and affairs of the Company and to carry out such acts. The Company hereby confirms and ratifies all actions taken by the Officers pursuant to the foregoing.

# Sample Provision: Major Decisions



## EXHIBIT B

### MAJOR LIMITED PARTNER DECISIONS

This Exhibit sets forth the "Major Limited Partner Decisions" referred to in **Error Reference source not found** of this Agreement. Except as otherwise indicated in this Exhibit, each capitalized term used herein shall have the meaning given to the same elsewhere in this Agreement. If Major Limited Partner does not approve or disapprove a Major Limited Partner Decision in a written notice given to Managing Member within ten (10) business days of Major Limited Partner's receipt of a single-purpose written notice from Managing Member requesting that Major Limited Partner approve such Major Limited Partner Decision, then such Major Limited Partner Decision shall be deemed not to be approved by Major Limited Partner. If the Members disagree with respect to a Major Limited Partner Decision, the Major Limited Partner shall have the sole right to approve or disapprove of such Major Limited Partner Decision, and the Managing Member shall (a) proceed with the matter or action so approved by the Major Limited Partner, or (b) take no action with respect to the matter or action so disapproved by the Major Limited Partner, in each case subject to the other terms and conditions of this Agreement.

A. The adoption of, and any supplement to, revision of, or deviation from the Business Plan in any material respect, and any activity by the Company or the Subsidiary which is inconsistent with the Business Plan in any material respect and (except as provided in subsection C below) any expenditure by the Company or the Subsidiary which is inconsistent with the Business Plan.

B. Without limitation on subsection A above, the adoption of, and any supplement to, or revision of, each Annual Budget.

C. Without limitation on subsection A above, but subject to this subsection C, any deviation from or expenditure inconsistent with the budget set forth in the Business Plan or Annual Budget. The consent of Major Limited Partner to an expenditure payable to an unrelated third party exceeding the amount specified for such expenditure in the Operating Budget shall not be required in any of the following circumstances: (a) the Managing Member, in its reasonable judgment, deems there to be an emergency requiring such expenditures to effectuate immediate action necessary for the protection of the assets of the Company or a Subsidiary or to avoid property damage or personal injury; (b) such expenditure would (i) cause the line item in the Operating Budget to which such expenditure relates to exceed 110% of the budgeted amount of such line item in the Operating Budget (taking into account the amounts expended to date and reasonably anticipated expenses in connection with such line item); or (ii) cause the aggregate amount of the expenses (excluding the expenses described in clause (c) below) within the Operating Budget to exceed 105% of the entire amount of budgeted expenses (excluding the amounts expended to date and reasonably anticipated expenses); or (c) expenditures for real property taxes, insurance and assessments and utilities. The provisions of clause (b) above are intended to be in lieu of any contingency category under the Operating Budget and accordingly, there shall be no such contingency line item in the Operating Budget. The Managing Member shall promptly notify Major Limited Partner of each permitted Annual Budget deviation made pursuant to this subsection C and shall promptly supply Major Limited Partner with such information with respect thereto as Major Limited Partner may reasonably request. Without the approval of Major Limited Partner: (x) all capital expenditures shall be included in a Capital Budget rather than an Operating Budget; (y) no deviations from a Capital Budget shall be permitted with the exception of expenditures to a unrelated third party that do not (i) cause the applicable line item to be exceeded by more than 10% (taking into account, in each case, the amounts expended to date and reasonably anticipated expenses); or (ii) cause the aggregate amount of the Capital Budget to be exceeded (taking into account, in each case, the amounts expended to date and reasonably anticipated expenses); and (z) not more than 20% of any contingency category in a Capital Budget shall be utilized.

The entry into any construction, development or other agreement relating to the Company, the Subsidiary or any of their respective assets, which provides for a term greater than three (3) months (unless terminable by the Company or the Subsidiary without cause or penalty upon thirty (30) days' notice to the other party) or contemplates an aggregate amount to be spent by the Company or the Subsidiary under such agreement in excess of \$50,000 (and a series of related agreements for amounts less than \$50,000 shall be construed as a single agreement for purposes of this subsection D); or any termination or material modification to any of the foregoing.

E. Any master lease or ground lease of the Project or any portion thereof.

F. Any transaction or matter that is not in the ordinary course of the business of the Company or the Subsidiary, including the following (and the terms thereof and any material modification or termination thereof) (i) any action or agreement with respect to any new projects or acquisition of any property by the Company or the Subsidiary; including the Project; (ii) any capital transaction (including any sale, ground lease, financing or refinancing of the assets of the Company or the Subsidiary or any portion thereof or any prepayment); or (iii) any pledge, mortgage, encumbrance, or grant of a security interest in any assets of the Company or the Subsidiary. The foregoing shall include the manner in which a capital transaction is structured (e.g., whether to sell assets or ownership interests in the Company or the Subsidiary).

G. Intentionally Omitted.

H. The amount of, and whether and when to make, contributions and Member Loans to the Company or the Subsidiary and distributions (including Tax Distributions) by the Company or the Subsidiary; including the determination of the amount of reserves to be maintained by the Company or the Subsidiary.

I. Communicating or settling any litigation or arbitration (including confession of judgment) involving the Company, the Subsidiary, or any of their respective assets, except for such litigation which meets the following requirements: (1) it constitutes a routine slip and fall matter covered in full by an insurance policy which is in effect (other than for any deductible which may apply), or a routine eviction proceeding, and (2) it is not reasonably expected to result in the payment by the Company or the Subsidiary during any calendar year of damages, fines and other costs and expenses in excess of \$25,000 for any individual matter; or \$50,000 in the aggregate.

J. All income or other tax elections, tax audits, examinations, claims, proceedings and related matters involving the Company or the Subsidiary.

K. Any construction (including repairs of material damage) within the Project, including the establishment of and any material amendment or supplement to the plans and specifications for such construction work, other than construction work contemplated by the Business Plan.

L. The engagement of attorneys, accountants, general contractors, architects, tax preparers, tax advisors, brokers, property managers, consultants and other professionals by the Company or the Subsidiary, except as set forth in the Business Plan.

M. The determination (and any material modification or termination) of what zoning, variances, map approvals, entitlements, permits or other governmental approvals to obtain for the Project and what payments and obligations (including concessions by, and restrictions on, the Company, the Subsidiary or any of their respective assets or the Project) will be incurred in connection therewith.

N. The insurance program (and any material modification or termination thereof) for the Company or the Subsidiary, including insurers, coverages and policy amounts.

O. Any guarantee, indemnity bond or surety bond by the Company or the Subsidiary.

P. The employment of employees of the Company or the Subsidiary.

Q. Press releases and marketing for the Project (except for lease marketing in accordance with the leasing plan which shall be included in the Business Plan), the Company, or the Subsidiary that identifies Major Limited Partner or any of its Affiliates.

R. Any amendment or supplement to this Agreement or the Company's certificate of formation, and the adoption of, and any amendment or supplement to the formation and organizational documents of the Subsidiary, unless such amendment or supplement is required by a lender for the Project and does not disproportionately affect any Member (who has not consented thereto) in any material adverse respect.

S. The formation, organization or acquisition of any corporation, limited liability company, partnership, or other entity as a subsidiary of the Company, other than the Subsidiary.

T. The acquisition by the Company or the Subsidiary of any material real estate assets other than the Project (inclusive of the land upon which the Project is to be constructed and all improvements constituting the Project, as set forth in the Business Plan).

U. The conduct by the Company or the Subsidiary of any business unrelated to the Project.

V. Except as expressly permitted in this Agreement, admission of a person or entity as a member, manager, partner or otherwise to the Company or the Subsidiary.

W. The merger or consolidation of the Company or the Subsidiary with any other entity, or the division of the Company or the Subsidiary.

X. A loan by the Company or the Subsidiary to any Member or third party or the extension of credit to any person, firm or corporation, on behalf of the Company or the Subsidiary.

Y. Distribution of any property in kind to any Member.

Z. The removal and appointment of a Managing Member.

AA. Any action outside the purposes specified in **Error Reference source not found**.

BB. Any transaction (including any agreement, compensation or reimbursement) between the Company or the Subsidiary, on the one hand, and a Member or an Affiliate of a Member, on the other hand, that is not market.

CC. Changing or permitting to be changed, in any material way, the accounting process and procedures employed in keeping the books of account, or preparing financial statements or income tax returns with respect to the operation or management of the Company or the Project.

# Sample Provision: Liquidity Put-Right / Sell-Out Right



## *Limited Partner Sell-Out Right*

The Limited Partner shall have the right to cause the General Partner to purchase its Partnership Interest in accordance with the following provisions:

1. The Limited Partner may elect to cause the General Partner to purchase its Partnership Interest by giving written notice (the "**Sell-Out Notice**") to the General Partner (i) at any time after the fifth anniversary of the date the Partnership purchases the Property for any reason, or for no reason at all, or (ii) at any time after the occurrence of a Cause Event. Any Sell-Out Notice must be accompanied by (and shall not valid or of any force or effect unless it is accompanied by) an appraisal of the fair market value of the Property (or if any portion thereof has been sold prior to such date, of all portions of the Property then owned by the Partnership or any Operating Company, and if any portion of the Property has been sold prior to such date, all references to the Property in this Section 7.5 shall not include any such portion which has been sold), prepared by an Appraiser selected by the Limited Partner (the "**LP Appraisal**"), as of the Valuation Date and, if applicable, the Alternative Valuation Date (each, as defined in Section 7.5(b)). The date the General Partner receives (or is deemed to have received pursuant to Section 13.1) the Sell-Out Notice and the LP Appraisal is referred to herein as the "**Trigger Date**". The Sell-Out Notice shall constitute a demand that the General Partner (or its designee) purchase the Limited Partner's Partnership Interests for an amount equal to the amount the Limited Partner would have received if the Partnership (or the applicable Operating Company(ies)) were to sell the Property for the Valuation Amount (as defined below) and then liquidate pursuant to Section 11.3 hereof, after satisfaction of all loans then encumbering the Property and payment of, or reasonable reserves for, all liabilities of the Partnership and any Operating Companies, taking into account all cash and cash equivalents of the Partnership and any Operating Companies in addition to the Valuation Amount (the "**Sell-Out Price**"); provided that in calculating the Sell-Out Price, the Valuation Amount shall be reduced by an amount equal to (i) three-quarters of one percent (0.75%) of the Valuation Amount, representing the presumed brokerage commission and presumed other closing costs that would have been paid by the Partnership or applicable Operating Company had it sold the Property to a third party (excluding presumed transfer tax) plus (ii) the amount of any transfer tax that would have been paid by the Partnership or applicable Operating Company had it sold the Property to a third party.

# Sample Provision: Tax Distributions



## Section 1.01 Tax Distributions.

(a) Within ninety (90) days after the close of each Fiscal Year, the Managing Member shall cause the Company to distribute to each Member an amount of cash equal to the aggregate state and federal income tax liability such Member would have incurred as a result of such Member's ownership of its Units in the Company for such Fiscal Year, calculated as if such Member were (i) an individual resident in the State of Maryland, and (ii) taxable at the maximum statutory rates for such Fiscal Year under applicable federal and state income tax laws as determined from time to time (such distributions referred to herein as "Tax Distributions"); *provided, however,* that no such Tax Distribution shall be made should the Managing Member determine, in its sole discretion, that (x) such distribution would adversely affect the Company or its business or violate any restrictions in any agreements for borrowed money or (y) Cash Flow was distributed to the Members during the prior Fiscal Year in at least the amount of the Tax Distributions.

(b) The Company, in the discretion of the Managing Member, but subject to Section 9.01(d) below, may make Tax Distributions to the Members during any Fiscal Year to enable the Members to make estimated tax payments with respect to such Fiscal Year or the preceding Fiscal Year based on calculations of the Members' estimated tax liability made pursuant to subsection (a) as of such dates as the Managing Member may determine.

(c) All Tax Distributions made under this Section 1.01 shall be allocated among and made to the Members in accordance with, and shall be deemed advances of, and credited to such Member in determining the allocations of, distributions made under Error! Reference source not found. hereof.

(d) Notwithstanding anything contained herein to the foregoing, any Tax Distribution shall be subject to the prior approval of the Major Limited Partner, which may be withheld in its sole and absolute discretion.

## Sample Provision: Guaranties & Cross Indemnity

Any non-recourse carve-out guaranties, environmental indemnities or other similar recourse obligations required by a lender in connection with any financing (collectively, "Guaranties") shall be provided by the LP Member or an Affiliate of the LP Member acceptable to the lender, so as to avoid any requirement by such lender that the other Members or any Affiliates of the other Members join in as a co-guarantor, subject, however, to the agreement by the LP Member (and any applicable Affiliate of the LP Member) in each case to undertake any such recourse obligations (that is, nothing in this Agreement shall require the LP Member or any Affiliate of the LP Member to provide any non-recourse carve-out guaranties, completion guaranties, or environmental indemnities or assume other recourse obligations to a lender, and any documentation reflecting such obligations must be satisfactory to the LP Member or such Affiliate of the LP Member, as the case may be, in its reasonable discretion). The LP Member and the other Members shall execute a reimbursement and indemnity agreement substantially in the form attached hereto as Exhibit A (the "Reimbursement Agreement") pursuant to which each party will agree to be responsible for all liability under any non-recourse carve-out guaranty, or environmental indemnity to the extent such liability arises from its or its Affiliates' actions or omissions. To the extent that LP Member and/or their Affiliates (other than the Company), as applicable, at any time incur any liability, including enforcement expenditures, under any Guaranties ("Obligations") which are not attributable to the wrongful acts or omissions of any other Member or its Affiliates, then then the LP Member and the other Members shall each be liable for all such Obligations pro rata based upon their respective Percentage Interests, the Members shall reimburse each other (or, to the extent applicable, any Affiliate of the LP Member), as applicable, until such Obligations are borne in accordance with their Percentage Interests, and each Member shall be deemed to have borne any such liability borne by its Affiliate. Except as set forth in this subsection, the parties intend that no Member, or any of its Affiliates, shall have any liability under or in connection with any third-party debt of the Company, including liability with regard to any environmental matters, non-recourse carve-outs, fraud, intentional misconduct, theft or other commonly called "bad-boy acts" or with regard to any other matter, unless otherwise approved in writing by such Member or Affiliate



# Sample Provisions: CTA



1. Corporate Transparency Act. Each Member acknowledges and agrees that the Company, the Project Entities, or their Affiliates may become subject to the Corporate Transparency Act (31 U.S.C. Section 5336) enacted as part of the National Defense Authorization Act for Fiscal Year 2021, as amended from time to time, together with rules promulgated thereunder (the "Corporate Transparency Act"), and corresponding state statutes and regulations to the extent applicable, and be required to submit reports (the "CTA Reports") in accordance therewith. In furtherance of the foregoing, promptly upon Managing Member's request, but in any event within five (5) Business Days, each beneficial owner (as defined in the Corporate Transparency Act) (a "Beneficial Owner") of such entity shall:
  - (a) provide all information and documents required to be included in the Company's or any Project Entity's or Affiliate's CTA Reports (the "CTA Information");
  - (b) if a Beneficial Owner becomes aware or has reason to know that any portion of the CTA Reports or CTA Information was or is inaccurate or incomplete, including, without limitation, as a result of a subsequent change of ownership or control (each such event, a "CTA Update Event"), the applicable Member shall, or shall cause such Beneficial Owner to, promptly, but no later than within five (5) Business Days after the occurrence of such CTA Update Event, notify the Managing Member of the CTA Update Event and provide the CTA Information required to be included in the Company's or any subsidiary's or Affiliate's CTA Reports required as a result of the CTA Update Event; and
  - (c) execute and deliver all consents and ancillary documents (collectively, "CTA Consents"), if any, required for providing the CTA Information and comply with the requirements of the CTA Reports.

Each Member represents and warrants that all CTA Information, CTA Consents, and other documents and information, provided by such Member for inclusion in the CTA Reports, including as a result of a subsequent change of control or ownership, are true, complete, and accurate as of the date(s) that such CTA Information, CTA Consents, and other documents are so provided. Each Member hereby agrees to indemnify and hold harmless the Company, any senior officer (as defined in the CTA) of the Company, and the other Members from and against any losses, claims, damages, judgments, penalties, fines, costs, or liabilities (collectively, "Damages") of whatever kind arising from or relating to: (1) any failure of such Member to comply with such Member's obligations under this Section I; and (2) any provision by such Member of any false or incomplete CTA Information. The provisions of this Section I and the obligations of a Member pursuant to this Section I shall survive the termination, dissolution, liquidation, and winding up of the Company or the Transfer of such Member's Units. Each Member agrees that in the event it owes any indemnification pursuant to the foregoing, such Damages may be paid from Distributable Cash otherwise distributable to the Member, in the discretion of the Managing Member.

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# NAVIGATING THE CURRENTS

REAL ESTATE LENDING IN A SHIFTING FINANCIAL LANDSCAPE

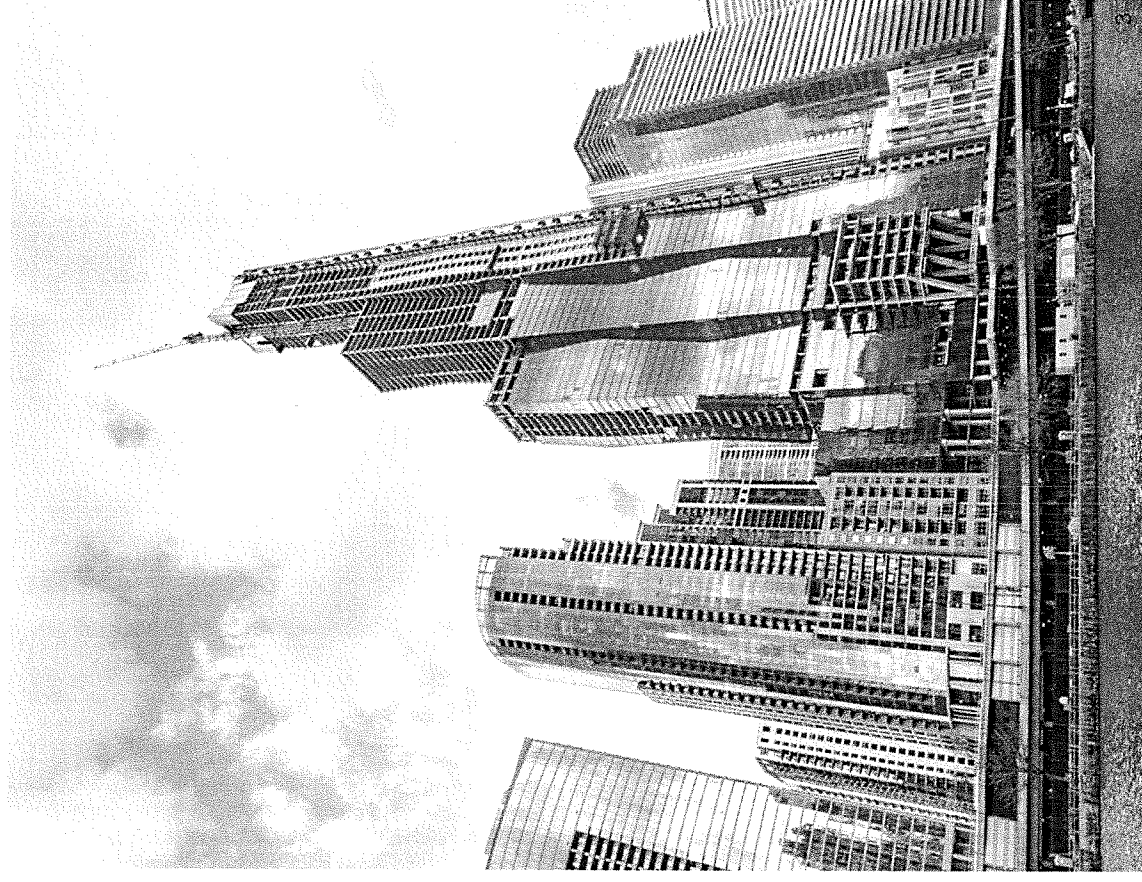
NOVEMBER 2024

**Eric Balderson**  
*Assistant Vice President*  
*Investment Real Estate*  
First National Bank  
BaldersonE@fnb-corp.com

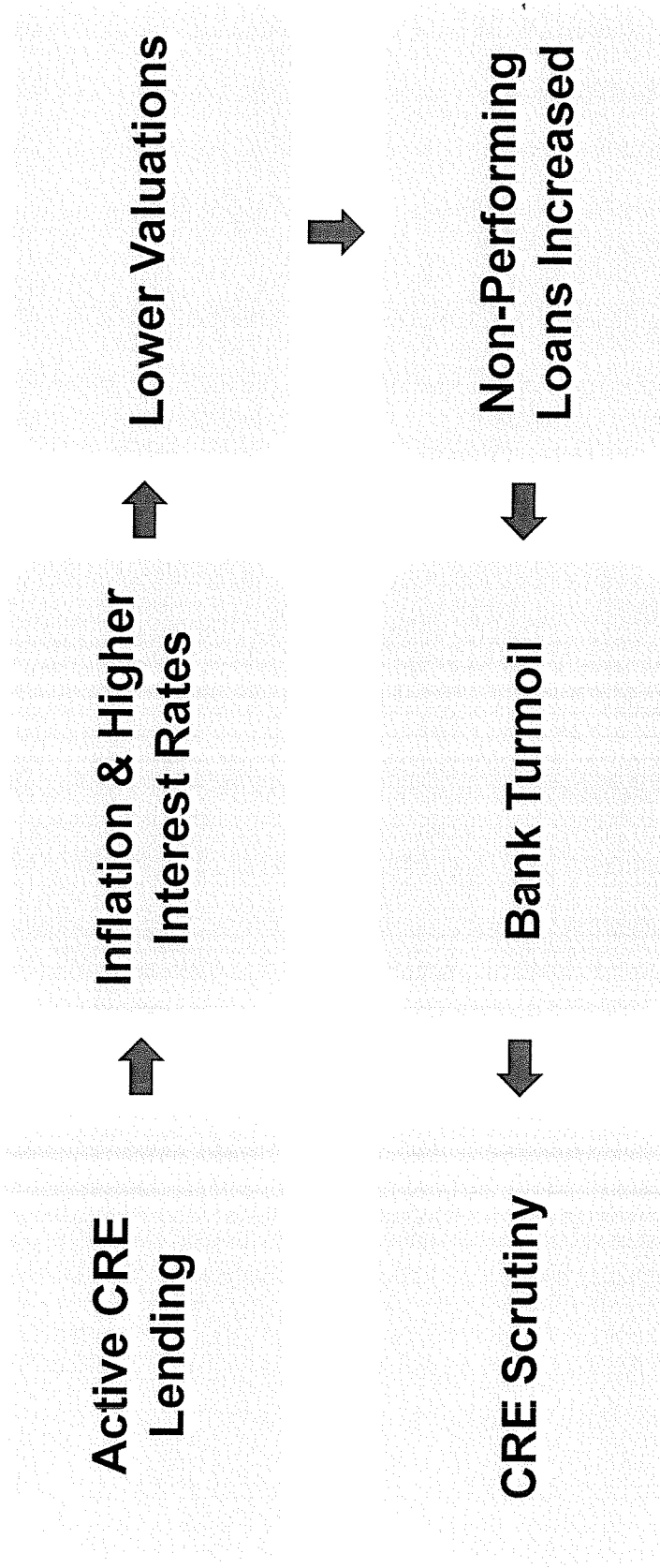


# AGENDA

- Decoding Bank Conservatism
- General Lending Trends
- Sector-Specific Trends
  - Retail
  - Multifamily
  - Industrial
  - Office
- Best Practices
- Questions



# DECODING BANK CONSERVATISM



# GENERAL LENDING TRENDS



DIVERSIFICATION



LOWER LEVERAGE



DEPOSITS



HIGHER SPREADS



SPONSOR EXPERIENCE



EXISTING RELATIONSHIPS

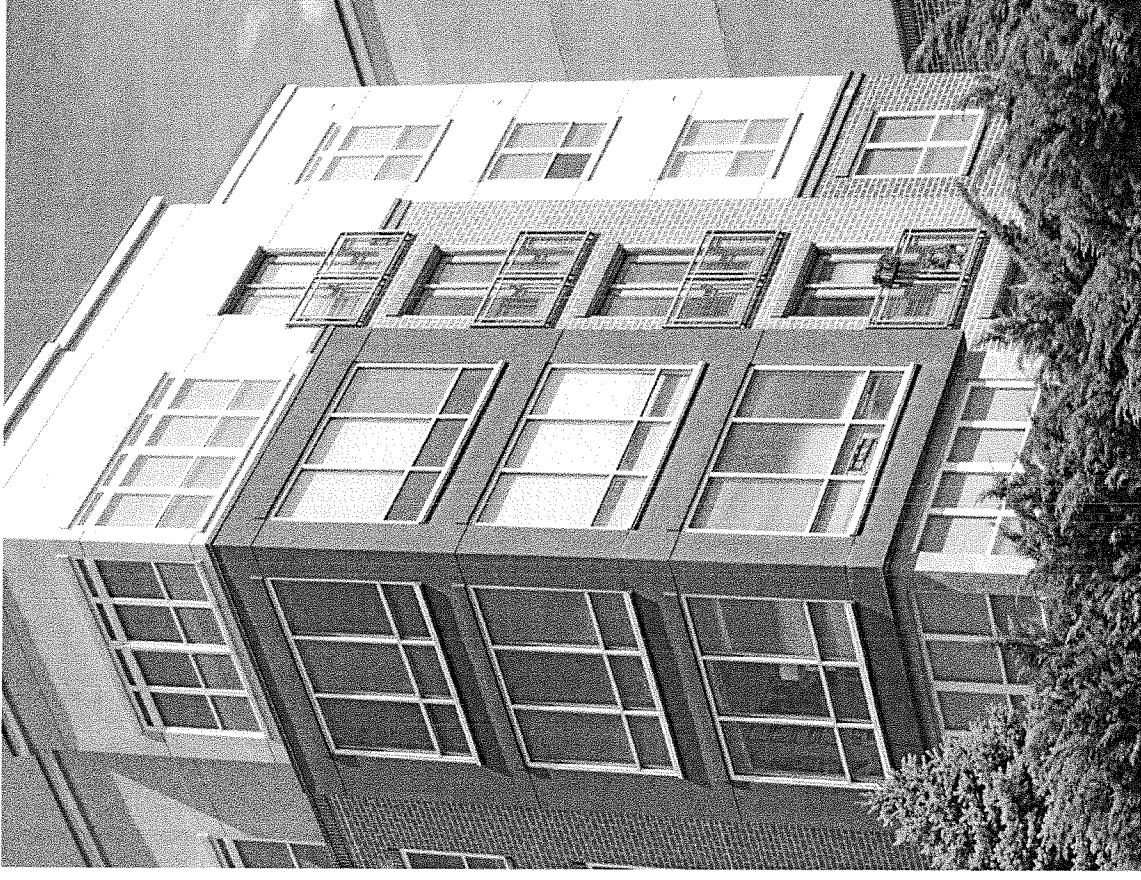
# RETAIL

- Most retail properties have fared well since the pandemic due to a dearth of new supply.
- Grocery-anchored shopping centers and credit tenant NNN properties are most desirable.
- Strong emphasis on quality of tenancy and remaining lease term.



# MULTIFAMILY

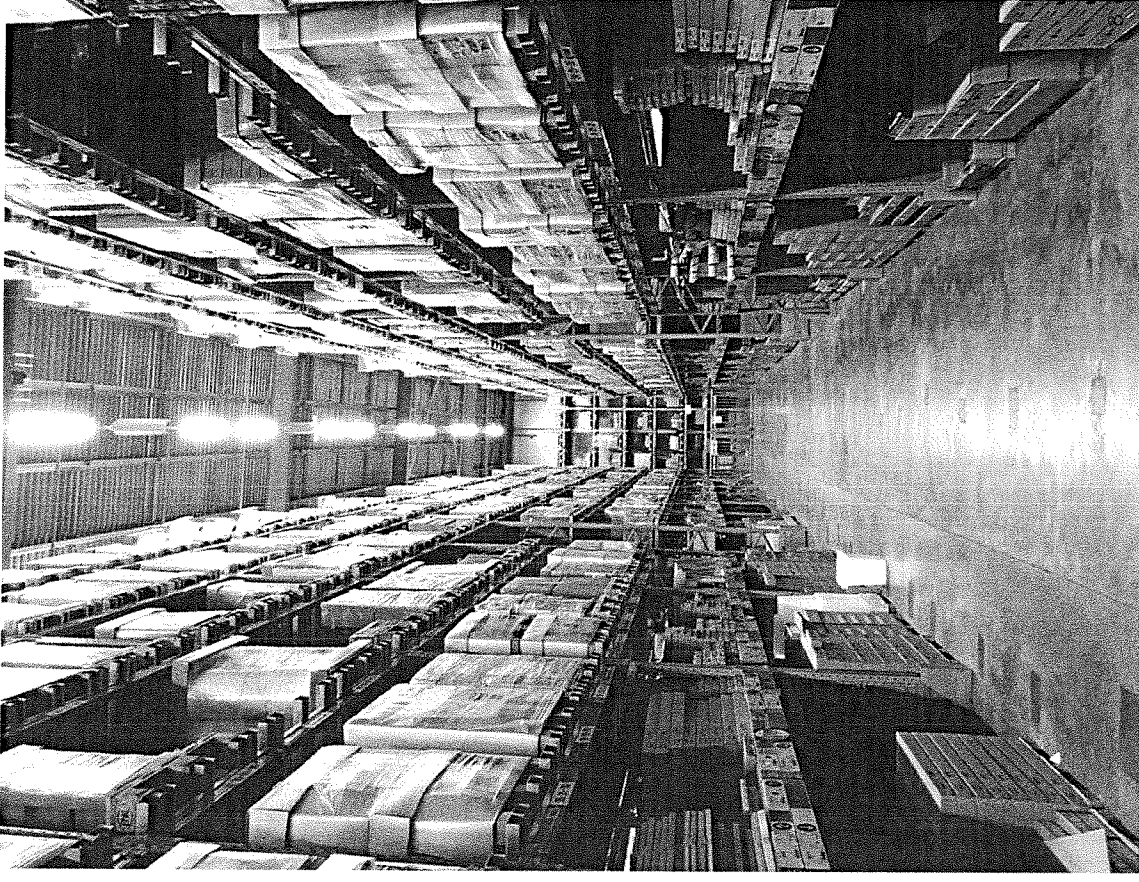
- 2024 has seen record new project completions but construction starts have declined significantly. The gap between starts and completions is the largest on record.<sup>1</sup>
- Some markets are oversaturated, and some banks are examining their concentrations in multifamily construction loans.
- Banks are still bullish on the right multifamily deals.





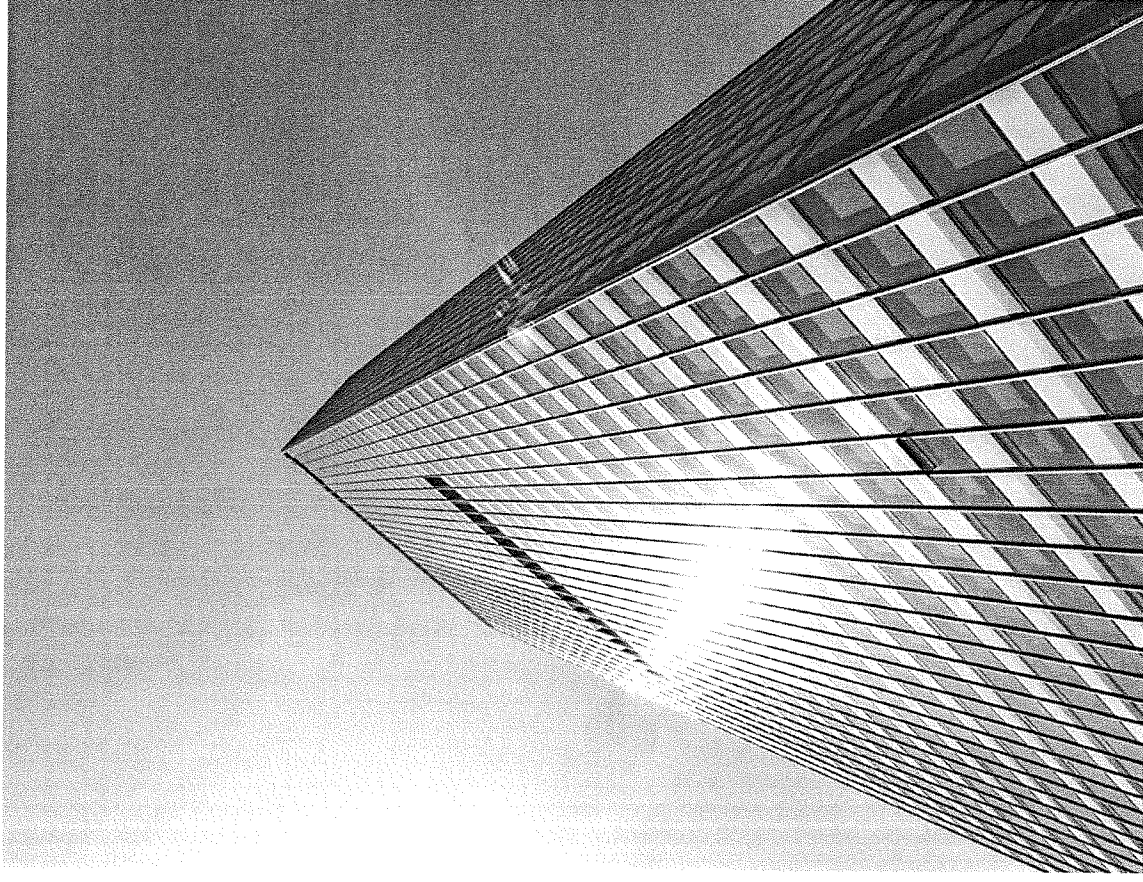
# INDUSTRIAL

- Supply continues to increase, and demand and rents have softened since the peak.
- Small-bay industrial space is in higher demand than big-box space in many markets.
- Bank appetite for industrial is primarily focused on leased or preleased buildings.
- Flex is financeable on a case-by-case basis. Should be a predominantly industrial/warehouse (i.e., non-office) buildout.



# OFFICE

- Bank appetite for traditional multi-tenant office properties has softened significantly.
- Medical office, life science, and owner-occupied office are still in play.
- Cash-in refinances to right-size LTV and DSCR are becoming common practice to address maturities.



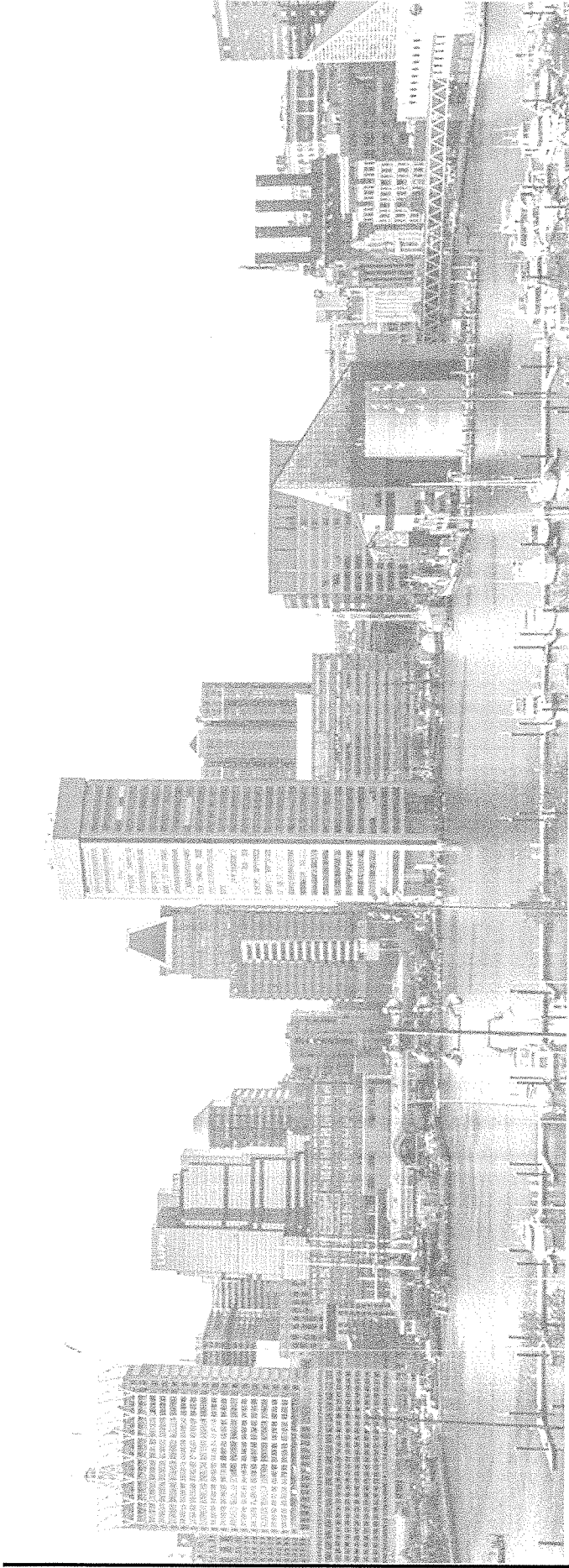
# BEST PRACTICES

## Obtaining New Financing

- ✓ Be willing to bring deposits to the table when seeking a new loan.
- ✓ Avoid being transactional. Focus on building and maintaining a well-rounded relationship with your bank.
- ✓ Communicate your priorities. Know which of your requested loan terms are firm and where you can flex if necessary.

## Existing, Deteriorating Situations

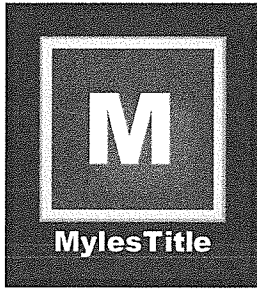
- ✓ Be proactive, transparent and forthcoming. Work with your lender and they will be more willing to work with you.
- ✓ Banks are not in the business of owning real estate. It is typically in everyone's best interest to find an amicable solution.



# THANK YOU

For any follow-up questions, please contact:

**ERIC BALDERSON**  
BaldersonE@fmb-corp.com



COMMERCIAL,  
MULTI-STATE  
AND COMPLEX  
REAL ESTATE  
TITLE TRANSACTIONS  
NATIONAL TALENT.  
LOCAL ATTENTION.

410.458.8975  
Myles@MylesTitle.com  
www.MylesTitle.com  
www.MarylandCommercialTitle.com

**Reply to:**  
Galleria Atrium, Suite 304  
1407 York Road  
Lutherville, Maryland 21093

*Affiliated with the Law Offices of  
Myles L. Lichtenberg, P.A.*

## LEGISLATIVE UPDATE BY MYLES LICHTENBERG

- A. Overview of SB 1169 (HB697) Real Estate Brokers – Commercial Transactions – Buyer’s Right to Select Title Company
- B. First American Title Insurance Company’s 2024 Legislative Update:
  1. MD – HB 12 – special tax property rate for certain vacant and abandoned property
  2. MD-HB54 – heir or legatee of decedent payment plan for payment of taxes
  3. MD – HB233 – Critical Area Commission to adopt regulations governing transfer of development rights, fee in lieu payments, etc.
  4. MD- HB280 – Authorizing a county or municipality to establish a fund for repair of infrastructure of condos and hoa’s
  5. MD – HB486 – Requires seller of residential property within 1 mile of Superfund site to provide buyer an addendum re: identification, definition, web addresses and notice buyer may void contract within 5 days of contract
  6. MD – HB693 – Maryland Tenants’ Bill of Rights to be included in a residential lease, limit security deposit in residential lease to one (1) month, except under certain circumstances
  7. MD-HB1117 – Landlord who offers residential dwelling for lease is deemed to warrant dwelling fit for human habitation, court may order certain relief for breach
  8. MD-HB1308 – Recording deed person knows contains false information; authorizing court to award attorney’s fees, etc.
  9. MD – SB75 – Increasing from in excess of \$10,000 to in excess of \$25,000 certain transfers to minors without court order
  10. MD-SB171 – Adding gas and electric utility services to types of services landlords must give tenants, etc.
  11. MD – SB542 – Requiring items to be in a brokerage agreement
  12. MD – SB665 – Reducing percentage of owners needed for consent to amendment to condo declaration if none owned by developer from 80% to 66 2/3%
  13. MD-HB371 – IDOT threshold for recordation tax exemption increased from less than \$3,000,000 to less than \$12,500,000.

Chapter 199

(Senate Bill 1169)

AN ACT concerning

Real Estate Brokers – Commercial Transactions – Buyer’s Rights

FOR the purpose of establishing certain requirements and prohibitions for commercial real estate transactions related to a buyer’s right to make certain title, settlement, and escrow selections; and generally relating to commercial real estate transactions and buyer’s rights.

BY adding to

Article – Business Occupations and Professions

Section 17–524.1 and 17–607.1

Annotated Code of Maryland

(2018 Replacement Volume and 2023 Supplement)

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

Article – Business Occupations and Professions

17–524.1.

(A) (1) IN THIS SECTION, “COMMERCIAL REAL ESTATE” MEANS:

(I) REAL PROPERTY IMPROVED BY FIVE OR MORE SINGLE-FAMILY UNITS;

(II) IMPROVED AND UNIMPROVED REAL PROPERTY ZONED FOR COMMERCIAL, INDUSTRIAL, OR NONRESIDENTIAL USE BY THE LOCAL ZONING AUTHORITY OF THE COUNTY OR MUNICIPALITY IN WHICH THE PROPERTY IS LOCATED; OR

(III) UNIMPROVED REAL PROPERTY ZONED FOR IMPROVEMENT AS MULTIFAMILY UNITS BY THE LOCAL ZONING AUTHORITY OF THE COUNTY OR MUNICIPALITY IN WHICH THE PROPERTY IS LOCATED.

(2) “COMMERCIAL REAL ESTATE” DOES NOT INCLUDE:

(I) PROPERTY ZONED FOR AGRICULTURAL USE; AND

(II) SINGLE-FAMILY UNITS, INCLUDING A CONDOMINIUM OR CO-OP UNIT, FOR SALE OR FOR LEASE, OR OTHERWISE CONVEYED OR TO BE CONVEYED ON A SINGLE BASIS.

(B) EACH REAL ESTATE CONTRACT SUBMITTED TO A PARTY BY A REAL ESTATE BROKER, A NONRESIDENT REAL ESTATE BROKER, AN ASSOCIATE REAL ESTATE BROKER, A REAL ESTATE SALESPERSON, OR A NONRESIDENT REAL ESTATE SALESPERSON FOR USE IN THE SALE OF COMMERCIAL REAL ESTATE SHALL CONTAIN, IN BOLD-FACED TYPE, A STATEMENT THAT THE BUYER HAS THE RIGHT TO SELECT THE BUYER’S OWN:

- (1) TITLE INSURANCE COMPANY;
- (2) SETTLEMENT COMPANY;
- (3) ESCROW COMPANY; OR
- (4) TITLE LAWYER.

(C) THE STATEMENT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL ALSO CONTAIN, IN BOLD-FACED TYPE, A STATEMENT THAT A SELLER MAY NOT BE PROHIBITED FROM OFFERING OWNER FINANCING AS A CONDITION OF SETTLEMENT.

17-607.1.

(A) IN THIS SECTION, “COMMERCIAL REAL ESTATE” HAS THE MEANING STATED IN § 17-524.1 OF THIS TITLE.

(B) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF THIS SECTION, IN A REAL ESTATE TRANSACTION INVOLVING COMMERCIAL REAL ESTATE, A REAL ESTATE BROKER, A NONRESIDENT REAL ESTATE BROKER, AN ASSOCIATE REAL ESTATE BROKER, A REAL ESTATE SALESPERSON, A NONRESIDENT REAL ESTATE SALESPERSON, OR A LAWYER ACTING AS A REAL ESTATE BROKER MAY NOT REQUIRE A BUYER, AS A CONDITION OF SETTLEMENT, TO EMPLOY A PARTICULAR:

- (1) TITLE INSURANCE COMPANY;
- (2) SETTLEMENT COMPANY;
- (3) ESCROW COMPANY; OR

**(4) TITLE LAWYER.**

**(C) A SELLER MAY NOT BE PROHIBITED FROM OFFERING OWNER FINANCING AS A CONDITION OF SETTLEMENT.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.

**Approved by the Governor, April 25, 2024.**



# HOUSE BILL 697

C3

4r1763  
CF SB 1169

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By: **Delegate Griffith**

Introduced and read first time: January 25, 2024

Assigned to: Environment and Transportation

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Committee Report: Favorable

House action: Adopted

Read second time: February 26, 2024

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Real Estate Brokers – Commercial Transactions – Buyer’s Rights**

3 FOR the purpose of establishing certain requirements and prohibitions for commercial real  
4 estate transactions related to a buyer’s right to make certain title, settlement, and  
5 escrow selections; and generally relating to commercial real estate transactions and  
6 buyer’s rights.

7 BY adding to

8 Article – Business Occupations and Professions

9 Section 17–524.1 and 17–607.1

10 Annotated Code of Maryland

11 (2018 Replacement Volume and 2023 Supplement)

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

14 **Article – Business Occupations and Professions**

15 **17–524.1.**

16 **(A) (1) IN THIS SECTION, “COMMERCIAL REAL ESTATE” MEANS:**

17 **(I) REAL PROPERTY IMPROVED BY FIVE OR MORE**  
18 **SINGLE–FAMILY UNITS;**

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1                   (II) IMPROVED AND UNIMPROVED REAL PROPERTY ZONED FOR  
2 COMMERCIAL, INDUSTRIAL, OR NONRESIDENTIAL USE BY THE LOCAL ZONING  
3 AUTHORITY OF THE COUNTY OR MUNICIPALITY IN WHICH THE PROPERTY IS  
4 LOCATED; OR

5                   (III) UNIMPROVED REAL PROPERTY ZONED FOR IMPROVEMENT  
6 AS MULTIFAMILY UNITS BY THE LOCAL ZONING AUTHORITY OF THE COUNTY OR  
7 MUNICIPALITY IN WHICH THE PROPERTY IS LOCATED.

8                   (2) "COMMERCIAL REAL ESTATE" DOES NOT INCLUDE:

9                   (I) PROPERTY ZONED FOR AGRICULTURAL USE; AND

10                   (II) SINGLE-FAMILY UNITS, INCLUDING A CONDOMINIUM OR  
11 CO-OP UNIT, FOR SALE OR FOR LEASE, OR OTHERWISE CONVEYED OR TO BE  
12 CONVEYED ON A SINGLE BASIS.

13                   (B) EACH REAL ESTATE CONTRACT SUBMITTED TO A PARTY BY A REAL  
14 ESTATE BROKER, A NONRESIDENT REAL ESTATE BROKER, AN ASSOCIATE REAL  
15 ESTATE BROKER, A REAL ESTATE SALESPERSON, OR A NONRESIDENT REAL ESTATE  
16 SALESPERSON FOR USE IN THE SALE OF COMMERCIAL REAL ESTATE SHALL  
17 CONTAIN, IN BOLD-FACED TYPE, A STATEMENT THAT THE BUYER HAS THE RIGHT TO  
18 SELECT THE BUYER'S OWN:

19                   (1) TITLE INSURANCE COMPANY;

20                   (2) SETTLEMENT COMPANY;

21                   (3) ESCROW COMPANY; OR

22                   (4) TITLE LAWYER.

23                   (C) THE STATEMENT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION  
24 SHALL ALSO CONTAIN, IN BOLD-FACED TYPE, A STATEMENT THAT A SELLER MAY  
25 NOT BE PROHIBITED FROM OFFERING OWNER FINANCING AS A CONDITION OF  
26 SETTLEMENT.

27 17-607.1.

28                   (A) IN THIS SECTION, "COMMERCIAL REAL ESTATE" HAS THE MEANING  
29 STATED IN § 17-524.1 OF THIS TITLE.

1           **(B) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF THIS**  
2 **SECTION, IN A REAL ESTATE TRANSACTION INVOLVING COMMERCIAL REAL ESTATE,**  
3 **A REAL ESTATE BROKER, A NONRESIDENT REAL ESTATE BROKER, AN ASSOCIATE**  
4 **REAL ESTATE BROKER, A REAL ESTATE SALESPERSON, A NONRESIDENT REAL**  
5 **ESTATE SALESPERSON, OR A LAWYER ACTING AS A REAL ESTATE BROKER MAY NOT**  
6 **REQUIRE A BUYER, AS A CONDITION OF SETTLEMENT, TO EMPLOY A PARTICULAR:**

7                   **(1) TITLE INSURANCE COMPANY;**

8                   **(2) SETTLEMENT COMPANY;**

9                   **(3) ESCROW COMPANY; OR**

10                   **(4) TITLE LAWYER.**

11           **(C) A SELLER MAY NOT BE PROHIBITED FROM OFFERING OWNER**  
12 **FINANCING AS A CONDITION OF SETTLEMENT.**

13           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2024.

Approved:

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Governor.

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Speaker of the House of Delegates.

---

President of the Senate.

**MD - HB2** Property Taxes - Authority of Counties to Establish a Subclass and Set a Special Rate for Vacant and Abandoned Property

Last Action: Text - Chapter - Property Taxes - Authority of Counties to Establish a Subclass and Set a Special Rate for Vacant and Abandoned Property (April 25, 2024 in the Senate)

Primary Sponsor: Delegate Regina T. Boyce (D)

Committees: Budget and Taxation (Senate) Ways and Means (House)

Summary: Authorizing the Mayor and City Council of Baltimore City or the governing body of a county to establish, by law, a subclass of real property consisting of vacant lots or improved property cited as vacant and unfit for habitation or other authorized use on a certain violation notice and to set a special property tax rate for certain vacant and abandoned property; requiring the Mayor and City Council of Baltimore City or the governing body of a county that enacts a special tax rate to submit a certain report by December 1 each year; etc.

Cross-filed Bill: SB138

Statutes Amended: 6-202.1, 6-302 Article - Tax - Property

**MD - HB54** Property Tax - Transfer to Heir or Legatee - Payment Plans

Last Action: Text - Chapter - Property Tax - Transfer to Heir or Legatee - Payment Plans (May 16, 2024 in the Senate)

Primary Sponsor: Delegate Vanessa E. Atterbeary (D)

Committees: Budget and Taxation (Senate) Ways and Means (House)

Summary: Exempting a grant of land transferring residential real property from the estate of a decedent to an heir or a legatee of the decedent from certain requirements for the payment of taxes on real property if the heir or legatee of the decedent enters into a payment plan to pay all the taxes due and owed on the property; exempting a grant of land that is subject to a payment plan for property taxes from certain requirements for the payment of taxes if the grantee agrees to assume the grantor's obligations under the payment plan; etc.

Statutes Amended: Tax – Property Article 10-209, 2-112; Real Property Article 3-104

**MD - HB233** Chesapeake and Atlantic Coastal Bays Critical Area Protection Program – Climate, Equity, and Administrative Provisions

Last Action: Text - Chapter - Chesapeake and Atlantic Coastal Bays Critical Area Protection Program – Climate, Equity, and Administrative Provisions (May 9, 2024 in the Senate)

Primary Sponsor: Chair, Environment and Transportation Committee

Committees: Environment and Transportation (House) Education, Energy, and the Environment (Senate)

Summary: Authorizing the Critical Area Commission to adopt regulations governing the transfer of development rights, fee in lieu payments, the assessment of and adaption of the critical area for climate resiliency, enhancing resilience in the critical area, and environmental justice and equity

initiatives; establishing certain considerations of climate change, climate resiliency, and equity as general principles and minimum elements of local programs; etc.

Cross-filed Bill: SB306

Statutes Amended: 1-701 Article – Environment; 19-106 Article - Business Regulation  
8-1801, 8-1802, 8-1804, 8-1805, 8-1806, 8-1808, 8-1808 through 19., 8-1808.1, 8-1808.10, 8-1808.2, 8-1808.3, 8-1809, 8-1810, 8-1811, 8-1812, 8-1813.1, 8-1814, 8-1815, 8-1815.1, 8-1817  
Article - Natural Resources

**MD - HB280** Local Government - Condominium and Homeowners Associations - Repair and Rehabilitation Funds

Last Action: Text - Chapter - Local Government - Condominium and Homeowners Associations - Repair and Rehabilitation Funds (April 25, 2024 in the Senate)

Primary Sponsor: Delegate Marvin E. Holmes, Jr. (D)

Committees: Budget and Taxation (Senate) Environment and Transportation (House)

Summary: Authorizing a county or a municipality to establish a certain fund for the purpose of providing support for the repair of infrastructure in a community subject to a condominium association or a homeowners association; and requiring that certain property tax revenues be assigned to a fund created under the Act.

Cross-filed Bill: SB446

Statutes Amended: 1-1319 Article - Local Government

**MD - HB486** Residential Property Sales - Contract Disclosures - Superfund Sites

Last Action: Text - Chapter - Residential Property Sales - Contract Disclosures - Superfund Sites (April 25, 2024 in the Senate)

Primary Sponsor: Delegate Kris Fair (D)

Committees: Judicial Proceedings (Senate) Environment and Transportation (House)

Summary: Requiring the seller of residential real property located within 1 mile of a National Priorities List (NPL) Superfund site to provide the buyer with an addendum to the contract for the sale of the property that contains the identification of the Superfund site, the definition of an NPL Superfund site, web addresses for certain websites, and a notice that the buyer may void the contract of sale within 5 days after signing and dating the contract of sale.

Cross-filed Bill: SB125

Statutes Amended: 10-714 Article - Real Property

**MD - HB498** Real Property - Access to Counsel in Evictions Program - Mandated Reports

Last Action: Text - Chapter - Real Property - Access to Counsel in Evictions Program - Mandated Reports (April 25, 2024 in the Senate)

Primary Sponsor: Delegate Jon S. Cardin (D)

Committees: Judicial Proceedings (Senate) Judiciary (House)

Summary: Altering the information relating to the Access to Counsel in Evictions Program required to be reported by the Maryland Legal Services Corporation each year to include disaggregation by case type, the amount paid to attorneys for each case managed, the geographic distribution of cases, the disposition of cases decided, the amount of State and federal funds allocated to each designated organization, and the number of individuals provided legal representation for multiple cases.

Cross-filed Bill: SB147

Statutes Amended: 8-901, 8-903, 8-907 Article - Real Property

**MD - HB664** Court Personnel - Protection of Personal Information (Judge Andrew F. Wilkinson Judicial Security Act)

Last Action: Text - Chapter - Court Personnel - Protection of Personal Information (Judge Andrew F. Wilkinson Judicial Security Act) (May 9, 2024 in the Senate)

Primary Sponsor: Delegate Luke Clippinger (D)

Committees: Judicial Proceedings (Senate) Judiciary (House)

Summary: Authorizing a certain protected individual or the Office of Information Privacy in the Administrative Office of the Courts to request that a governmental entity or person not publish personal information of the individual on the Internet, social media, or social networks or remove the information from any existing publication; specifying certain procedures for the protection of personal information of a protected individual; authorizing certain relief for a violation of the Act; etc.

Cross-filed Bill: SB575

Statutes Amended: 3-114 Article - Real Property; 3-2301 through 3-2304, 3-2401 through 3-2407 Article - Courts and Judicial Proceedings

**MD - HB693** Renters' Rights and Stabilization Act of 2024

Last Action: Text - Chapter - Renters' Rights and Stabilization Act of 2024 (April 25, 2024 in the Senate)

Primary Sponsor: Speaker

Committees: Judicial Proceedings (Senate) Judiciary (House) Environment and Transportation (House) Education, Energy, and the Environment (Senate)

Summary: Establishing the Office of Tenant and Landlord Affairs in the Department of Housing and Community Development to provide certain educational resources and information to tenants; requiring the Office to develop and publish a Maryland Tenants' Bill of Rights; requiring the most recently published version of the Maryland Tenants' Bill of Rights to be included as part of a residential lease; limiting the maximum security deposit required by a residential lease to 1 month's rent, except under certain circumstances; etc.

Cross-filed Bill: SB481

Statutes Amended: 14-133, 8-119, 8-203, 8-208, 8-401 Article - Real Property

4-2901, 4-2906, 5-101 through 5-104 Article - Housing and Community Development

7-301 Article - Courts and Judicial Proceedings

**MD - HB697** Real Estate Brokers – Commercial Transactions – Buyer's Rights

Last Action: Text - Chapter - Real Estate Brokers – Commercial Transactions – Buyer's Rights (April 25, 2024 in the Senate)

Primary Sponsor: Delegate Mike Griffith (R)

Committees: Environment and Transportation (House) Education, Energy, and the Environment (Senate)

\* Summary: Establishing certain requirements and prohibitions for commercial real estate transactions related to a buyer's right to make certain title, settlement, and escrow selections.

Cross-filed Bill: SB1169

Statutes Amended: 17-524.1, 17-607.1 Article - Business Occupations and Professions

**MD - HB1117** Landlord and Tenant - Failure to Repair Serious and Dangerous Defects - Tenant Remedies (Tenant Safety Act of 2024)

Last Action: Text - Chapter - Landlord and Tenant - Failure to Repair Serious and Dangerous Defects - Tenant Remedies (Tenant Safety Act of 2024) (April 25, 2024 in the Senate)

Primary Sponsor: Delegate Vaughn Stewart (D)

Committees: Judicial Proceedings (Senate) Environment and Transportation (House)

Summary: Establishing that a landlord that offers a residential dwelling unit for rent is deemed to warrant the dwelling fit for human habitation; authorizing multiple tenants to join as plaintiffs in a civil action against a landlord and authorizing a court to issue an order for separate trials or other orders necessary to prevent delay or avoid prejudice; providing that a court may order certain relief in civil actions relating to the breach of warranty of habitability, including actual damages, abatement of rent, and lease termination; etc.

Cross-filed Bill: SB946

Statutes Amended: 8-211, 8-212 Article - Real Property

**MD - HB1227** Condominiums - Mandatory Insurance Coverage - Detached Units

Last Action: Text - Chapter - Condominiums - Mandatory Insurance Coverage - Detached Units (April 25, 2024 in the Senate)

Primary Sponsor: Delegate Marvin E. Holmes, Jr. (D)

Committees: Judicial Proceedings (Senate) Environment and Transportation (House)

Summary: Altering the types of elements and units for which a council of unit owners is required to maintain certain property insurance; requiring the council of unit owners to annually notify, in writing, owners of detached units of certain property insurance obligations; limiting instances when an owner of a detached unit within a condominium is required to carry homeowners insurance on the entirety of

the unit; and authorizing a council of unit owners to carry homeowners insurance on the entirety of all units located within a certain condominium.

Cross-filed Bill: SB1015

Statutes Amended: 11-114 Article - Real Property

**MD - HB1308** Real Property - Recordation of Instrument With False Information - Penalties and Actions to Quiet Title

Last Action: Text - Chapter - Real Property - Recordation of Instrument With False Information - Penalties and Actions to Quiet Title (April 25, 2024 in the Senate)

Primary Sponsor: Delegate William J. Wivell (R)

Committees: Judicial Proceedings (Senate) Judiciary (House)

Summary: Prohibiting a person from recording a deed or other instrument that the person knows contains false information; establishing a 3-year limitation on when a prosecution for a violation of the Act may be commenced; establishing a fine not to exceed \$500 for a violation of the Act; and authorizing a court to award certain costs and attorney's fees in an action to quiet title if the action or a defense to an action is based on the alleged recordation of a deed containing false information.

Statutes Amended: 14-607, 14-617, 3-104.2 Article - Real Property; 5-106 Article - Courts and Judicial Proceedings

**MD - SB15** Cooperative Housing Corporations - Dispute Settlement

Last Action: Text - Chapter - Cooperative Housing Corporations - Dispute Settlement (April 25, 2024 in the Senate)

Primary Sponsor: Senator Chris West (R)

Committees: Judicial Proceedings (Senate) Environment and Transportation (House)

Summary: Altering procedures for the dispute settlement mechanism under the Maryland Cooperative Housing Corporation Act and applying the mechanism to any complaint or demand formally arising on or after October 1, 2023, with a certain exception.

Cross-filed Bill: HB309

Statutes Amended: 5-6B-30 Article - Corporations and Associations

**MD - SB19** Failure to Pay Rent Proceedings - Shielding of Court Records

Last Action: Text - Chapter - Failure to Pay Rent Proceedings - Shielding of Court Records (April 25, 2024 in the Senate)

Primary Sponsor: Senator Charles E. Sydnor, III (D)

Committees: Judicial Proceedings (Senate) Judiciary (House) Environment and Transportation (House)

Summary: Requiring the District Court to shield all court records within 60 days after the final resolution of a failure to pay rent proceeding that did not result in a judgment of possession; authorizing the District Court, on motion of a tenant, to shield all court records relating to a failure to



pay rent proceeding that results in a judgment of possession under certain circumstances; requiring the Maryland Judiciary to develop and publish on its website a certain form; etc.

Cross-filed Bill: HB181

Statutes Amended: 8-503 Article - Real Property

**MD - SB75** Maryland Uniform Transfers to Minors Act - Transfers as Custodian for the Benefit of a Minor - Authorization of Court

Last Action: Text - Chapter - Maryland Uniform Transfers to Minors Act - Transfers as Custodian for the Benefit of a Minor - Authorization of Court (April 25, 2024 in the Senate)

Primary Sponsor: Senator Chris West (R)

Committees: Judicial Proceedings (Senate) Judiciary (House)

Summary: Increasing, from in excess of \$10,000 to in excess of \$25,000, the threshold amount for certain transfers by a personal representative, trustee, or conservator as a custodian for the benefit of a minor to require authorization by a court.

Cross-filed Bill: HB324

Statutes Amended: 13-306 Article - Estates and Trusts

**MD - SB164** Estates and Trusts - Interested Person - Definition

Last Action: Text - Chapter - Estates and Trusts - Interested Person - Definition (April 25, 2024 in the Senate)

Primary Sponsor: Senator Chris West (R)

Committees: Judicial Proceedings (Senate) Judiciary (House)

Summary: Altering the definition of "interested person" for purposes of provisions of law governing the estates of decedents, guardians of persons and property, trusts, and powers of attorney.

Cross-filed Bill: HB325

Statutes Amended: 1-101 Article - Estates and Trusts

**MD - SB171** Landlord and Tenant - Notice of Utility Bills in Residential Leases - Gas and Electric Services

Last Action: Text - Chapter - Landlord and Tenant - Notice of Utility Bills in Residential Leases - Gas and Electric Services (April 25, 2024 in the Senate)

Primary Sponsor: Senator Malcolm Augustine (D)

Committees: Judicial Proceedings (Senate) Environment and Transportation (House)

Summary: Adding gas and electric utility services to the types of services for which landlords of buildings that contain six or more units are required to provide a written notice to a tenant, at the initiation of a lease and each term thereafter, providing the total utility costs billed to the landlord in the immediately preceding year for utility services, disaggregated by utility type; and applying certain

requirements relating to payment of utility services to landlords of buildings that contain five or fewer residential dwelling units.

Cross-filed Bill: HB139

Statutes Amended: 8-220 Article - Real Property

**MD - SB199** Residential Property - Affordable Housing Land Trusts - Authority to Establish Condominium Regimes

Last Action: Text - Chapter - Residential Property - Affordable Housing Land Trusts - Authority to Establish Condominium Regimes (April 25, 2024 in the Senate)

Primary Sponsor: Senator Jeff Waldstreicher (D)

Committees: Judicial Proceedings (Senate) Environment and Transportation (House)

Summary: Authorizing a condominium regime to be established on certain land owned by an affordable housing land trust.

Cross-filed Bill: HB13

Statutes Amended: 11-102 Article - Real Property

**MD - SB206** Condominiums - Common Elements - Clean Energy Equipment

Last Action: Text - Chapter - Condominiums - Common Elements - Clean Energy Equipment (April 25, 2024 in the Senate)

Primary Sponsor: Senator William C. Smith, Jr. (D)

Committees: Judicial Proceedings (Senate) Environment and Transportation (House)

Summary: Authorizing the board of directors of a condominium, by a majority vote, to grant leases in excess of 1 year or similar interests affecting the common elements of the condominium for the installation and use of leased clean energy equipment.

Cross-filed Bill: HB216

Statutes Amended: 11-125 Article - Real Property

**MD - SB286** Homeowners' and Homestead Property Tax Credits - Application Filing Deadline - Extension

Last Action: Text - Chapter - Homeowners' and Homestead Property Tax Credits - Application Filing Deadline - Extension (May 16, 2024 in the Senate)

Primary Sponsor: Chair, Budget and Taxation Committee

Committees: Budget and Taxation (Senate) Ways and Means (House)

Summary: Authorizing the State Department of Assessments and Taxation to accept an application for the homeowners' property tax credit submitted by a certain homeowner within 3 years after April 15 of the taxable year for which the credit is sought if the homeowner is enrolled in the Homeowner Protection Program; and providing for the calculation of the homestead property tax credit for certain homeowners under certain circumstances.

Cross-filed Bill: HB154

Statutes Amended: 9-104 Article - Tax - Property

**MD - SB423** Real Property - Recordation - Procedures

Last Action: Text - Chapter - Real Property - Recordation - Procedures (April 25, 2024 in the Senate)

Primary Sponsor: Senator Mary-Dulany James (D)

Committees: Judicial Proceedings (Senate) Environment and Transportation (House)

Summary: Requiring a county treasurer, tax collector, or director of finance to provide a certificate enumerating certain taxes, assessments, and charges against a property and to establish certain procedures to facilitate the issuance of a certificate; requiring a collecting agent presented with a certificate to endorse a deed on payment of transfer and recordation taxes and all charges stated in the certificate and establishing that this endorsement is sufficient authority for a transfer on the assessment books; etc.

Statutes Amended: 3-104, 3-703 Article - Real Property

**MD - SB465** Common Ownership Communities - Electric Vehicle Recharging Equipment (Electric Vehicle Recharging Equipment Act of 2024)

Last Action: Text - Chapter - Common Ownership Communities - Electric Vehicle Recharging Equipment (Electric Vehicle Recharging Equipment Act of 2024) (April 25, 2024 in the Senate)

Primary Sponsor: Senator Ariana B. Kelly

Committees: Judicial Proceedings (Senate) Environment and Transportation (House)

Summary: Altering certain requirements for procedures relating to electric vehicle recharging equipment; establishing requirements and procedures relating to an application to the governing body of a cooperative housing corporation to install or use electric vehicle recharging equipment; and requiring the Department of Housing and Community Development to publish information on its common ownership community website regarding certain requirements, contractor and insurer information, points of contact, and dispute resolution resources.

Cross-filed Bill: HB159

Statutes Amended: 11-111.4, 11B-111.8 Article - Real Property; 2-303 Article - Housing and Community Development; 5-6B-23.1 Article - Corporations and Associations

**MD - SB542** Real Estate Brokers - Brokerage Agreements - Requirements

Last Action: Text - Chapter - Real Estate Brokers - Brokerage Agreements - Requirements (April 25, 2024 in the Senate)

Primary Sponsor: Senator Benjamin Brooks (D)

Committees: Economic Matters (House) Education, Energy, and the Environment (Senate)

Summary: Requiring items to be included in a brokerage agreement between a real estate broker and a seller or lessor or a buyer or lessee.

Statutes Amended: 17-534 Article - Business Occupations and Professions

**MD - SB665** Maryland Condominium Act - Amendments to the Declaration

Last Action: Text - Chapter - Maryland Condominium Act - Amendments to the Declaration (April 25, 2024 in the Senate)

Primary Sponsor: Senator Nick Charles (D)

Committees: Judicial Proceedings (Senate) Environment and Transportation (House)

Summary: Reducing the percentage of unit owners listed on the current roster of a condominium needed to consent to an amendment of a condominium's declaration if none of the units of the condominium are owned by a developer of the condominium from 80% to 66 2/3%.

Cross-filed Bill: HB1496

Statutes Amended: 11-103 Article - Real Property

***The Legislative Services 90 Day Report can be found here:***

**[https://dls.maryland.gov/pubs/prod/RecurRpt/24rs\\_90\\_Day\\_Report.pdf](https://dls.maryland.gov/pubs/prod/RecurRpt/24rs_90_Day_Report.pdf)**

**Reminder from 2023 Legislative Update:**

**MD - HB371** Recordation Tax - Indemnity Mortgage Exemption - Threshold Amount

Last Action: Text - Enrolled - Recordation Tax - Indemnity Mortgage Exemption - Threshold Amount (April 10, 2023)

Primary Sponsor: Delegate Dalya Attar (D)

Summary: 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.

Cross-filed Bill: SB476

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