

being construed to limit the defenses of fraud, duress, or illegality or affect any claim between a third party and a party to an operating agreement; defining certain terms; requiring that this Act be construed to apply to all operating agreements that are executory agreements as of a certain date or are executed and delivered after a certain date; and generally relating to operating agreements that relate to hotels and retirement communities.

BY adding to

Article - Commercial Law

Section 23-101 through 23-106, inclusive, to be under the new title "Title 23. Operating Agreements - Hotels and Retirement Communities"

Annotated Code of Maryland

(2000 Replacement Volume and 2003 Supplement)

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

Article - Commercial Law

TITLE 23. OPERATING AGREEMENTS - HOTELS AND RETIREMENT COMMUNITIES.

23-101.

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

(B) "HOTEL" MEANS A HOTEL OR MOTEL WITH MORE THAN 30 ROOMS FOR RENT THAT IS PRIMARILY USED BY TRANSIENTS WHO ARE LODGED WITH OR WITHOUT MEALS.

(C) "OPERATING AGREEMENT" MEANS A WRITTEN CONTRACT, AGREEMENT, INSTRUMENT, OR OTHER DOCUMENT BETWEEN AT LEAST TWO PERSONS THAT RELATES TO THE MANAGEMENT, OPERATION, OR FRANCHISE OF A HOTEL OR A RETIREMENT COMMUNITY.

(D) "PERSON" DOES NOT INCLUDE AN INDIVIDUAL, A NOT FOR PROFIT ENTITY, OR A PUBLIC INSTRUMENTALITY.

(E) (1) "RETIREMENT COMMUNITY" MEANS A SENIOR LIVING COMMUNITY, RETIREMENT COMMUNITY, ASSISTED LIVING COMMUNITY, CONTINUING CARE RETIREMENT COMMUNITY, INDEPENDENT LIVING COMMUNITY, OR SIMILAR COMMUNITY THAT OFFERS A COMBINATION OF INDEPENDENT LIVING, ASSISTED LIVING, OR NURSING.

(2) "RETIREMENT COMMUNITY" DOES NOT INCLUDE:

(I) A FREESTANDING NURSING HOME, AS DEFINED IN § 19-1401 OF THE HEALTH - GENERAL ARTICLE, THAT IS LICENSED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;