

**SAMUEL I. "SANDY" ROSENBERG**  
*Legislative District 41*  
Baltimore City

Health and Government Operations  
Committee

*Chair*

Government Operations and Estates  
and Trusts Subcommittee

*House Chair*

Joint Committee on Administrative,  
Executive, and Legislative Review



**THE MARYLAND HOUSE OF DELEGATES**  
**ANNAPOLIS, MARYLAND 21401**

Testimony of Delegate Samuel I. Rosenberg

Before the House Appropriations Committee In Support Of

**House Bill 94**

**Estates and Trusts – Rule Against Perpetuities**

Mister Chair and Members of the Committee:

In Maryland, the common law Rule Against Perpetuities prevents property from becoming endlessly encumbered. Based on this rule, assignments of property are void if they extend more than 21 years past the life of certain lives in being.

The General Assembly has previously moved to shield some transfers of property from the Rule Against Perpetuities. In 2007, House Bill 188 amended §11-102(b) of the Estates and Trusts Article. In part, that legislation expanded the list of items to which the common law Rule Against Perpetuities does not apply. Rather than alter the common law, this bill was intended to codify the exceptions to the Rule Against Perpetuities in one place for easier reference.

One such codified exception was the common law “option of a tenant to purchase all or part of the premises leased by the tenant.” At common law, however, this option expired at the expiration of the tenancy. The limiting clause was inadvertently excluded from the 2007 legislation.

As currently phrased, the exception to the Rule Against Perpetuities could allow a tenant once offered the option to purchase the property to exercise that option even long after the tenancy expired. The common law aligns with common sense: a person with an option to purchase the property that person currently leases may exercise that option only during the period of the tenancy.

House Bill 94 makes the Maryland statutory exception to the Rule Against Perpetuities consistent with the applicable common law exception and the Restatement (First) of Property, §395(a)(1944). This consistency is what was intended by Chapter 381 of the Laws of 2007.

Therefore, I respectfully request your favorable consideration of HB 94.

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RESPOND TO OFFICE INDICATED

*Annapolis Office*

The Maryland House of Delegates  
6 Bladen Street, Room 365  
Annapolis, Maryland 21401  
410-841-3297 · 301-858-3297  
800-492-7122 Ext. 3297  
Samuel.Rosenberg@house.state.md.us

*District Office*

4811 Liberty Heights Avenue  
Baltimore, Maryland 21207  
410-664-2646