

ARBOR REALTY TRUST INC  
Form 424B5  
May 09, 2014

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**Filed pursuant to Rule to 424(b)(5)  
Registration Statement No. 333-189532**

**PROSPECTUS SUPPLEMENT  
TO PROSPECTUS DATED AUGUST 5, 2013**

## **Arbor Realty Trust, Inc.**

### **\$55,000,000 7.375% Senior Notes due 2021**

We are offering \$55,000,000 principal amount of our 7.375% Senior Notes due 2021 (the "notes"). The notes will mature on May 15, 2021. We will pay interest on the notes quarterly in arrears on February 15th, May 15th, August 15th and November 15th of each year, commencing on August 15, 2014. Prior to May 15, 2017, the notes will not be redeemable. On or after May 15, 2017, we may redeem the notes, in whole or in part, at any time or from time to time at a redemption price in cash equal to 100% of the principal amount of the notes to be redeemed, plus accrued and unpaid interest to, but not including, the redemption date. See "Description of Notes Optional Redemption" in this prospectus supplement. Upon a Fundamental Change, we will be required to make an offer to repurchase all outstanding notes at a repurchase price in cash equal to 101% of the principal amount of the notes to be repurchased, plus accrued and unpaid interest to, but not including, the repurchase date. See "Description of Notes Fundamental Change Permits Holders to Require Us to Repurchase Notes" in this prospectus supplement. The notes will be issued in minimum denominations of \$25 and integral multiples of \$25 in excess thereof.

The notes will be our senior unsecured obligations and will rank senior in right of payment to our existing and future indebtedness that is expressly subordinated in right of payment to the notes; equal in right of payment to our existing and future unsecured indebtedness that is not so subordinated; effectively junior in right of payment to any of our secured indebtedness to the extent of the value of the assets securing such indebtedness; and structurally junior in right of payment to all existing and future indebtedness (including trade payables) incurred by our subsidiaries. We are a holding company whose principal assets are the equity interests we hold in our subsidiaries. We will depend upon our subsidiaries to provide us with substantially all of the funds to meet our obligations under the notes.

No current market exists for the notes. We intend to apply to list the notes on the New York Stock Exchange (the "NYSE") under the symbol "ABRN." If the application is approved, trading of the notes on the NYSE is expected to begin within 30 days after the date of initial issuance of the notes. The notes are expected to trade "flat," which means that purchasers will not pay, and sellers will not receive, any accrued and unpaid interest on the notes that is not reflected in the trading price.

We have granted the underwriters the right to purchase up to an additional \$8,250,000 principal amount of notes from us to cover over-allotments, if any, on the same terms and conditions set forth above within 30 days of the date of this prospectus supplement.

**Investing in the notes involves a high degree of risk. See "Risk Factors" beginning on page S-6 of this prospectus supplement and the risks set forth under the heading "Item 1A. Risk Factors" beginning on page 15 of our Annual Report on Form 10-K for the year ended December 31, 2013.**

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus supplement or the accompanying prospectus is truthful or complete. Any representation to the contrary is**

a criminal offense.

	<b>Per Note</b>	<b>Total (2)</b>
Public offering price <sup>(1)(2)</sup>	100%	\$ 55,000,000
Underwriting discount	3.5%	\$ 1,925,000
Proceeds, before expenses, to us	96.5%	\$ 53,075,000

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(1)

Plus accrued interest, if any, from May 12, 2014.

(2)

Assumes no exercise of the underwriters' over-allotment option.

The notes will be ready for delivery on or about May 12, 2014 only in book-entry form through the facilities of The Depository Trust Company.

*Joint Book-Running Managers*

**Deutsche Bank Securities**

**Keefe, Bruyette & Woods**  
*A Stifel Company*  
*Senior Co-Manager*

**MLV & Co.**

**Credit Suisse**

*Co-Managers*

**JMP Securities**

The date of this prospectus supplement is May 7, 2014.

**Ladenburg Thalmann & Co. Inc.**

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**ABOUT THIS PROSPECTUS SUPPLEMENT**

**You should rely only on the information contained or incorporated by reference in this prospectus supplement, the accompanying prospectus and any related free writing prospectus required to be filed with the Securities and Exchange Commission, or the SEC or the Commission. We have not, and the underwriters have not, authorized anyone to provide you with information that is different. If anyone provides you with additional or different information, you should not rely on it. Neither we nor the underwriters are making an offer to sell the notes in any jurisdiction where the offer or sale is not permitted. The information contained or incorporated by reference in this prospectus supplement, the accompanying prospectus, any related free writing prospectus and the documents incorporated by reference is accurate only as of their respective dates and except as required by law we are not obligated, and do not intend to, update or revise this document as a result of new information, future events or otherwise.**

This document is in two parts. The first part is this prospectus supplement, which adds to and updates information contained in the accompanying prospectus and the documents incorporated by reference into the accompanying prospectus. The second part is the accompanying prospectus, which gives more general information, some of which may not apply to this offering of the notes. This prospectus supplement adds, updates and changes information contained in the accompanying prospectus and the information incorporated by reference. To the extent the information contained in this prospectus supplement differs or varies from the information contained in the accompanying prospectus or any document incorporated by reference, the information in this prospectus supplement shall control.

In this prospectus supplement and the accompanying prospectus, unless expressly noted or the context indicates otherwise, the words "we," "us," "our," "Arbor," "Company" and similar references mean Arbor Realty Trust, Inc. and its subsidiaries, including Arbor Realty Limited Partnership, our operating partnership, and Arbor Realty SR, Inc., its subsidiary, and the words "Arbor Commercial Mortgage" or "our manager" refer to Arbor Commercial Mortgage, LLC.

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**CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS**

The information contained in this prospectus supplement is not a complete description of our business or the risks associated with an investment in us. We urge you to review carefully and consider the various disclosures made by us in this prospectus supplement including the documents incorporated by reference herein.

This prospectus supplement and the accompanying prospectus, including the documents incorporated by reference in this prospectus supplement and the accompanying prospectus, contain certain "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995 and are subject to risks and uncertainties. Such forward-looking statements relate to, among other things, the operating performance of our investments and financing needs. Forward-looking statements are generally identifiable by use of forward-looking terminology such as "may," "will," "should," "potential," "intend," "expect," "seek," "anticipate," "estimate," "believe," "could," "project," "predict," "continue" or other similar words or expressions. Forward-looking statements are based on certain assumptions, discuss future expectations, describe future plans and strategies, contain projections of results of operations or of financial condition or state other forward-looking information. Our ability to predict results or the actual effect of future plans or strategies is inherently uncertain. Although we believe that the expectations reflected in such forward-looking statements are based on reasonable assumptions, our actual results and performance could differ materially from those set forth in the forward-looking statements. These forward-looking statements involve risks, uncertainties and other factors that may cause our actual results in future periods to differ materially from forecasted results. Factors that could have a material adverse effect on our operations and future prospects include, but are not limited to:

changes in economic conditions generally and the real estate market specifically;

adverse changes in the financing markets we access affecting our ability to finance our loan and investment portfolio;

changes in interest rates;

the quality and size of the investment pipeline and the rate at which we can invest our cash;

impairments in the value of the collateral underlying our loans and investments;

legislative/regulatory changes;

the availability and cost of capital for future investments;

competition; and

other risks detailed in our Annual Report on Form 10-K for the year ended December 31, 2013.

You are cautioned not to place undue reliance on any of these forward-looking statements, which reflect our management's views as of the date of the report containing such statements incorporated herein or as of the date of this prospectus supplement with respect to statements that are expressly stated herein. The factors noted above could cause our actual results to differ materially from those contained in any forward-looking statement.

Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements. We do not intend and we disclaim any duty or obligation to update or revise any industry information or forward-looking statement set forth in this prospectus supplement, the accompanying prospectus or the documents incorporated by reference herein to reflect new information, future events, or otherwise, except as required by U.S. federal securities laws.



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**PROSPECTUS SUPPLEMENT SUMMARY**

*This summary description of us, our manager and our business highlights selected information about us and our manager contained elsewhere in this prospectus supplement or the accompanying prospectus or the documents incorporated by reference herein or therein. This summary does not contain all of the information about us that you should consider before deciding whether to invest in the notes. You should read carefully this entire prospectus supplement and the accompanying prospectus, including each of the documents incorporated herein and therein by reference, before making an investment decision.*

**Our Company**

We are a specialized real estate finance company that invests in a diversified portfolio of structured finance assets in the multi-family and commercial real estate markets. We invest primarily in real estate-related bridge and mezzanine loans, including junior participating interests in first mortgages, preferred and direct equity and, in limited cases, discounted mortgage notes and other real estate-related assets, which we refer to collectively as structured finance investments. We also hold investments in mortgage-related securities and real property. Our principal business objective is to maximize the difference between the yield on our investments and the cost of financing these investments to generate cash available for distribution, facilitate capital appreciation and maximize total return to our stockholders.

We are organized to qualify as a REIT for federal income tax purposes. A REIT is generally not subject to federal income tax on that portion of its REIT taxable income, or Taxable Income, that is distributed to its stockholders, provided that at least 90% of Taxable Income is distributed and certain other REIT qualification requirements are met. Certain of our assets that produce non-qualifying income are held in taxable REIT subsidiaries. Unlike other subsidiaries of a REIT, the income of a taxable REIT subsidiary is subject to federal and state income taxes.

We conduct substantially all of our operations and investing activities through our operating partnership, Arbor Realty Limited Partnership, and its subsidiaries, including Arbor Realty SR, Inc., a subsidiary REIT. We serve as the general partner of our operating partnership, and currently own 100% of its partnership interests.

We are externally managed and advised by Arbor Commercial Mortgage, LLC, a national commercial real estate finance company that specializes in debt and equity financing for multi-family and commercial real estate, pursuant to the terms of a management agreement.

We are a Maryland corporation formed in June 2003. Our principal executive offices are located at 333 Earle Ovington Boulevard, Suite 900, Uniondale, New York 11553. Our telephone number is (516) 506-4200. Our website is located at [www.arborrealtytrust.com](http://www.arborrealtytrust.com). The information contained on or accessible through our website is not a part of this prospectus supplement or the accompanying prospectus.

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The summary below describes the principal terms of the notes. Certain of the terms and conditions described below are subject to important limitations and exceptions. The "Description of Notes" section of this prospectus supplement contains a more detailed description of the terms and conditions of the notes and defines the capitalized terms used in this section. As used in this section, "we," "our," and "us" refer to Arbor Realty Trust, Inc., and not to any of its consolidated subsidiaries.

Issuer	Arbor Realty Trust, Inc., a Maryland corporation.
Notes Offered	\$55 million in aggregate principal amount of 7.375% Senior Notes due 2021. We will issue the notes in denominations of \$25 and integral multiples of \$25 in excess thereof.
Over-Allotment Option	The underwriters may also purchase from us up to an additional \$8.25 million in aggregate principal amount of notes to cover over-allotments, if any, within 30 days of the date of this prospectus supplement.
Maturity	May 15, 2021 unless earlier repurchased or redeemed.
Interest	7.375% per year. Interest will accrue from May 12, 2014 and will be payable quarterly in arrears on February 15 <sup>th</sup> , May 15 <sup>th</sup> , August 15 <sup>th</sup> and November 15 <sup>th</sup> of each year, beginning on August 15, 2014.
Optional Redemption	Prior to May 15, 2017, the notes will not be redeemable. On or after May 15, 2017 and prior to the maturity date, we may redeem for cash all or part of the notes, upon not less than 45 nor more than 60 calendar days' notice before the redemption date to the trustee, the paying agent and each holder of notes. The redemption price will be equal to 100% of the principal amount of the notes to be redeemed, plus accrued and unpaid interest to, but excluding, the redemption date (unless the redemption date falls after a regular record date but on or prior to the immediately succeeding interest payment date, in which case we will pay the full amount of accrued and unpaid interest to the holder of record as of the close of business on such regular record date, and the redemption price will be equal to 100% of the principal amount of the notes to be redeemed).

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Repurchase of Notes by Us Upon a Fundamental Change	If a Fundamental Change (as defined in "Description of Notes - Fundamental Change Permits Holders to Require Us to Repurchase Notes") occurs at any time, holders will have the right, at their option, to require us to repurchase for cash any or all of their notes, or any portion of the principal amount thereof that is equal to \$25 or an integral multiple of \$25 in excess thereof. The price we are required to pay is equal to 101% of the principal amount of the notes to be repurchased, plus accrued and unpaid interest to, but excluding, the repurchase date (unless the repurchase date falls after a regular record date but on or prior to the interest payment date to which such regular record date relates, in which case we will instead pay the full amount of accrued and unpaid interest to the holder of record on such regular record date, and the repurchase price will be equal to 101% of the principal amount of the notes to be repurchased).
Information Rights	During any period in which we are not subject to Section 13 or 15(d) of the Exchange Act and any notes are outstanding, we will provide to holders and prospective holders of notes, without cost, information that is substantially similar to the information that we would have been required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act if we were subject thereto.
Ranking	The notes will be our senior unsecured obligations and will rank:  senior in right of payment to our existing and future indebtedness that is expressly subordinated in right of payment to the notes;  equal in right of payment to our existing and any future unsecured indebtedness that is not subordinated;  effectively junior in right of payment to any of our secured indebtedness to the extent of the value of the assets securing such indebtedness; and  structurally junior in right of payment to all existing and future indebtedness (including trade payables) incurred by our subsidiaries.



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	<p>As of March 31, 2014, our total consolidated indebtedness was \$1.263 billion, all of which was indebtedness of our subsidiaries and approximately \$0.249 billion of which was guaranteed by us. After giving effect to the issuance of the notes (assuming no exercise by the underwriters of their over-allotment option to purchase additional notes), our total consolidated indebtedness would have been approximately \$1.318 billion. See "Capitalization."</p>
Use of Proceeds	<p>We estimate that the proceeds from this offering will be approximately \$52.9 million (or \$60.9 million if the underwriters exercise in full their over-allotment option to purchase additional notes), after deducting the underwriting discount and estimated offering expenses. We intend to use the net proceeds from the sale of the notes to make investments relating to our business, to repurchase or pay liabilities and for general corporate purposes. See "Use of Proceeds."</p>
Certain Covenants	<p>The indenture governing the notes will not restrict our or our subsidiaries' ability to pay dividends, incur liens, sell less than substantially all of our assets, enter into transactions with affiliates, enter into sale-leaseback transactions, enter into agreements that restrict the ability of our subsidiaries to make distributions to us or make investments, issue or repurchase our other securities or secure indebtedness with the assets, stock or equity interests of our subsidiaries.</p> <p>We will not, and will not permit any of our subsidiaries to, incur any Debt, other than Intercompany Debt, including that which is subordinate in right of payment to the notes, if, immediately after giving pro forma effect to the incurrence of such Debt and the application of the proceeds thereof, our Senior Debt Service Coverage Ratio would be less than 1.2 to 1.0 or if our Debt to Equity Ratio would be greater than 6.0 to 1.0. For definitions of the terms "Debt," "Intercompany Debt," "Senior Debt Service Coverage Ratio" and "Debt to Equity Ratio," see "Description of Notes Certain Definitions."</p> <p>After the date the notes are first issued, if we issue senior unsecured debt securities in an aggregate principal amount equal to or greater than \$200.0 million pursuant to an indenture that contains financial covenants that are different than the financial covenants applicable to the notes, we will amend the indenture with respect to the notes, without the consent of holders of the notes, so that the financial covenants applicable to such senior unsecured debt securities replace the financial covenants applicable to notes.</p>

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	Other than as described under "Description of Notes Fundamental Change Permits Holders to Require Us to Repurchase Notes" and " Consolidation, Merger or Asset Sale," the indenture governing the notes does not contain any covenants or other provisions designed to afford holders of the notes protection in the event of a highly leveraged transaction involving us or in the event of a decline in our credit rating as the result of a takeover, recapitalization, highly leveraged transaction or similar restructuring involving us that could adversely affect such holders.
Book-entry Form	The notes will be issued in book-entry form and will be represented by global certificates deposited with, or on behalf of, The Depository Trust Company, or DTC, and registered in the name of the nominee of DTC. Beneficial interests in any of the notes will be shown on, and transfers will be effected only through, records maintained by DTC or its nominee and any such interest may not be exchanged for certificated notes, except in limited circumstances.
Listing	We intend to apply to list the notes on the NYSE under the symbol "ABRN." If the application is approved, we expect trading in the notes on the NYSE to begin within 30 days after the date of initial issuance of the notes.
Trading	The notes are expected to trade "flat," meaning that purchasers will not pay, and sellers will not receive, any accrued and unpaid interest on the notes that is not reflected in the trading price.
Federal Income Tax Considerations	For a discussion of the U.S. federal income tax considerations of the holding and disposition of the notes, see "Federal Income Tax Considerations" in the accompanying prospectus.
Trustee, Registrar and Paying Agent	U.S. Bank National Association.
Risk Factors	See "Risk Factors" beginning on page S-6 of this prospectus supplement and on page 15 of our Annual Report on Form 10-K for the year ended December 31, 2013 for a discussion of factors you should carefully consider before deciding to invest in the notes.

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**RISK FACTORS**

*An investment in the notes involves a high degree of risk. Before making an investment decision, you should read carefully and consider the risk factors in the section titled "Risk Factors" in our Annual Report on Form 10-K for the year ended December 31, 2013 and the risk factors described below, as well as the other information included or incorporated by reference in this prospectus supplement and the accompanying prospectus, as the same may be updated from time to time by our future filings with the SEC under the Exchange Act. Any of these risks, if they actually occur, could materially adversely affect our business, financial condition, and results of operations. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial may also materially and adversely affect us. In any such case, you could lose all or a portion of your original investment.*

**Risks Related to the Notes**

**The effective subordination of the notes may limit our ability to satisfy our obligations under the notes.**

The notes will be our senior unsecured obligations and will rank equally with all of our other senior unsecured indebtedness. However, the notes will be effectively subordinated to all of our secured indebtedness to the extent of the value of the collateral securing such indebtedness. Consequently, in the event of a bankruptcy, liquidation, dissolution, reorganization or similar proceeding with respect to us, the holders of any secured indebtedness will be entitled to proceed directly against the collateral that secures such secured indebtedness. Therefore, such collateral will not be available for satisfaction of any amounts owed under our unsecured indebtedness, including the notes, until such secured indebtedness is satisfied in full. As of March 31, 2014, we had no secured or unsecured indebtedness outstanding on an unconsolidated basis.

Our subsidiaries are separate and distinct legal entities and have no obligation to make payments on the notes or to make any funds available for that purpose. Consequently, the notes also will be effectively subordinated to all liabilities, whether secured or unsecured, and all preferred equity of our subsidiaries. In the event of a bankruptcy, liquidation, dissolution, reorganization or similar proceeding with respect to any subsidiary, we, as an equity owner of such subsidiary, and therefore holders of our debt, including the notes, will be subject to the prior claims of such subsidiary's creditors, including trade creditors. As of March 31, 2014, the total liabilities (exclusive of related party debt, revenue and other liabilities) of our subsidiaries was \$1.263 billion, of which \$0.249 billion was guaranteed by us.

The provisions of the indenture governing the notes restrict, but do not eliminate, our and our subsidiaries' ability to incur additional indebtedness, whether secured or unsecured.

**We are a holding company whose principal assets are the equity interests we hold in our subsidiaries. We will depend upon our subsidiaries to provide us with substantially all of the funds to meet our obligations under the notes.**

We are a holding company, and we conduct our operations principally through our subsidiaries. We derive substantially all our revenues from our subsidiaries, and substantially all of our operating assets are owned by our subsidiaries. As a result, our cash flow and our ability to service our debt, including the notes, largely depend on the results of operations of our subsidiaries and upon the ability of our subsidiaries to provide us with cash to pay amounts due on our obligations, including the notes. Dividends, loans, or other distributions from our subsidiaries to us also may be subject to contractual and other restrictions, are

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dependent upon results of operations of our subsidiaries, and are subject to other business considerations.

**Servicing our debt requires a significant amount of cash, and in the future we may not have sufficient cash flow from our business to pay our substantial debt.**

Our ability to make scheduled payments of the principal of, to pay interest on or to refinance our indebtedness, including the notes, depends on our future performance, which is subject to economic, financial, competitive and other factors beyond our control. Our business may not continue to generate cash flow from operations in the future sufficient to service our debt and make necessary capital expenditures. If we are unable to generate such cash flow, we may be required to adopt one or more alternatives, such as selling assets, restructuring debt or obtaining additional equity capital on terms that may be onerous or highly dilutive. Our ability to refinance our indebtedness will depend on the capital markets and our financial condition at such time. We may not be able to engage in any of these activities or engage in these activities on desirable terms, which could result in a default on our debt obligations.

**Despite our current debt levels, we may still incur substantially more debt or take other actions which would intensify the risks discussed above.**

Despite our current consolidated debt levels, we and our subsidiaries may be able to incur substantial additional debt in the future, subject to the restrictions contained in the indentures governing the notes and our other debt instruments, some of which may be secured debt. As described under "Description of Notes Financial Covenants," the terms of the indenture governing the notes will restrict, but will not eliminate, our and our subsidiaries' ability to incur additional debt, secure existing or future debt, recapitalize our debt or take a number of other actions that could have the effect of diminishing our ability to make payments of principal, premium, if any, and interest on the notes when due.

**We may not have the ability to raise the funds necessary to repurchase the notes upon a Fundamental Change.**

At maturity, the entire principal amount of the notes then outstanding, plus any accrued and unpaid interest, will become due and payable by us. Holders of the notes will also have the right to require us to repurchase the notes upon the occurrence of a Fundamental Change (as defined in "Description of Notes Fundamental Change Permits Holders to Require Us to Repurchase Notes"), in each case, at 101% of their principal amount plus accrued and unpaid interest, if any, as described under "Description of Notes Fundamental Change Permits Holders to Require Us to Purchase Notes." We may not have enough available cash or be able to obtain financing at the time we are required to make required repurchases of notes surrendered therefor or to meet our other obligations with respect to the notes. In addition, our ability to repurchase the notes or to pay cash upon the maturity of the notes may be limited by law, by regulatory authority, by agreements governing our existing or future indebtedness or by restrictions on the ability of our subsidiaries to make distributions to us. Our failure to repurchase surrendered notes at a time when such repurchase is required by the indenture governing the notes or to pay any cash payable at maturity of the notes as required by the indenture governing the notes would constitute a default under such indenture and would permit holders of the notes to accelerate our obligations under the notes. Such a default may lead to a default under the agreements governing our other existing or future indebtedness. If the repayment of the related indebtedness were to be accelerated after any applicable notice or grace periods, we may not have sufficient funds to repay such indebtedness and repurchase the notes.

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**If we default on our obligations to pay our other indebtedness, we may not be able to make payments on the notes.**

If there were a payment event of default under any of the agreements relating to our outstanding indebtedness or an acceleration of such indebtedness, in each case, in respect of indebtedness having an aggregate principal amount of more than \$25 million, the holders of the notes could declare all amounts outstanding under the notes to be immediately due and payable. Our cash flows or assets may not be sufficient to fully repay the notes and our other outstanding indebtedness in the event of any such payment default or any such acceleration.

**There are limited covenants and protections in the Indenture.**

Except as described below, the indenture will not contain any financial covenants. Accordingly, the indenture will not restrict our or our subsidiaries' ability to pay dividends, incur liens, sell less than substantially all of our assets, enter into transactions with affiliates, enter into sale-leaseback transactions, enter into agreements that restrict the ability of our subsidiaries to make distributions to us or make investments, issue or repurchase our other securities or secure indebtedness with the assets, stock or equity interests of our subsidiaries.

We will not, and will not permit any of our subsidiaries to, incur any Debt, other than Intercompany Debt, including that which is subordinate in right of payment to the notes, if, immediately after giving pro forma effect to the incurrence of such Debt and the application of the proceeds thereof, our Senior Debt Service Coverage Ratio would be less than 1.2x or if our Debt to Equity Ratio would be greater than 6.0x. Accordingly, the indenture governing the notes restricts, but does not eliminate, our and our subsidiaries' ability to incur indebtedness, including indebtedness that would be senior to the notes. The incurrence of additional indebtedness could have the effect of diminishing our ability to make payments of principal, premium, if any, and interest on the notes when due and payable.

For definitions of the terms "Debt," "Intercompany Debt," "Senior Debt Service Coverage Ratio" and "Debt to Equity Ratio," see "Description of Notes - Certain Definitions."

**Some significant restructuring transactions may not constitute a Fundamental Change, in which case we would not be obligated to offer to repurchase the notes.**

Upon the occurrence of a Fundamental Change, holders of the notes will have the right to require us to repurchase their notes. However, the right to require us to repurchase the notes upon a Fundamental Change will not afford protection to holders of notes if other transactions occur that are not deemed to be Fundamental Changes. For example, transactions such as leveraged recapitalizations, refinancings, restructurings, or acquisitions initiated by us may not constitute a Fundamental Change requiring us to repurchase the notes. If we are involved in any such transaction, the holders would not have the right to require us to repurchase the notes, even though each of these transactions could increase the amount of our indebtedness, or otherwise adversely affect our capital structure or any credit ratings, thereby adversely affecting the holders of notes and our ability to make payments of principal, premium, if any, and interest on the notes.

**An active trading market may not develop for the notes, which could adversely affect the price of the notes in the secondary market and your ability to resell the notes should you desire to do so.**

The notes are a new issue of securities and there is no established trading market for the notes. The underwriters have advised us that they intend to make a market in the notes, but they are not obligated to do so. The underwriters may discontinue any market-making in the

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notes at any time at their sole discretion. Accordingly, a liquid trading market may not develop for the notes, you may not be able to sell your notes at a particular time and the price you receive if you sell may not be favorable.

We intend to apply to list the notes on the NYSE. If the application is approved, we expect trading in the notes on the NYSE to begin within 30 days after the notes are first issued; however, we cannot make any assurance as to:

whether the application to the NYSE with respect to the notes will be approved;

the development of an active trading market;

the liquidity of any trading market that may develop;

the ability of holders to sell their notes on the NYSE or otherwise; or

the price at which the holders would be able to sell their notes.

If a trading market were to develop, the future trading prices of the notes would depend on many factors, including prevailing interest rates, our credit ratings, if any, and the credit rating of the notes published by major rating agencies, if the notes are rated in the future, the market for similar securities and our operating performance and financial condition. If a trading market does develop, there is no assurance that it will continue. If an active public trading market for the notes does not develop or does not continue, the market price and liquidity of the notes is likely to be adversely affected and notes traded after their purchase may trade at a discount from their purchase price.

The notes are expected to trade "flat," meaning that purchasers will not pay, and sellers will not receive, any accrued and unpaid interest on the notes that is not reflected in the trading price. Any portion of the trading price of a note that is attributable to accrued and unpaid interest will be treated as a payment of interest for U.S. federal income tax purposes and will not be treated as part of the amount realized for purposes of determining gain or loss on disposition of the notes.

#### **We may be unable to repay the principal amount of the notes at maturity.**

At maturity, the entire outstanding principal amount of the notes will become due and payable by us. We may not have sufficient funds or will be able to arrange for necessary financing on acceptable terms to pay the principal amount due. In that case, our failure to repay the notes at maturity would constitute an event of default under the indenture governing the notes.

#### **Redemption may adversely affect your return on the notes.**

On or after May 15, 2017, we will have the right to redeem some or all of the notes prior to maturity, as described under "Description of Notes Optional Redemption." We may redeem the notes at times when prevailing interest rates may be relatively low compared to rates at the time of issuance of the notes. Accordingly, you may not be able to reinvest the redemption proceeds in a comparable security at an effective interest rate as high as that of the notes.

#### **The notes may not be rated or may receive a lower rating than anticipated.**

We do not intend to seek a rating on the notes. However, if one or more rating agencies rates the notes and assigns the notes a rating lower than the rating expected by investors, or reduces their rating in the future, the trading price of the notes is likely to decline.

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In addition, the trading prices of the notes will be directly affected by market perceptions of our creditworthiness. Consequently, if a credit ratings agency rates any of our or our subsidiaries' debt in the future or downgrades or withdraws any such rating, or puts us or any of our subsidiaries on credit watch, the trading price of the notes is likely to decline.

**An increase in market interest rates could result in a decrease in the value of the notes.**

In general, as market interest rates rise, notes bearing interest at a fixed rate decline in value. Consequently, if you purchase the notes, and the market interest rates subsequently increase, the market value of the notes may decline. We cannot predict the future level of market interest rates.

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**USE OF PROCEEDS**

Our net proceeds from the sale of the notes will be approximately \$52.9 million, after deducting the underwriting discount and estimated offering expenses payable by us. If the underwriters' over-allotment option is exercised in full, our net proceeds from the offering will be approximately \$60.9 million, after deducting the underwriting discount and estimated offering expenses payable by us.

We plan to use all of the net proceeds from this offering to make investments relating to our business, to repurchase or pay liabilities and for general corporate purposes.

**RATIO OF EARNINGS TO COMBINED FIXED CHARGES AND PREFERRED DIVIDENDS**

The following table sets forth our ratio of earnings to combined fixed charges and preferred stock dividends for each of the periods presented on an actual basis. The ratio of earnings to combined fixed charges and preferred dividends was computed by dividing earnings by our combined fixed charges and preferred dividends. For purposes of calculating this ratio, (i) earnings represent "Net income (loss) from continuing operations" from our consolidated statements of operations, as adjusted for fixed charges and loss (income) and distributions from equity affiliates, and (ii) fixed charges represent "Interest expense" from our consolidated statements of operations as adjusted for capitalized interest. The ratios are based solely on historical financial information.

	<b>Three Months Ended March 31, 2014</b>	<b>Actual</b>				
		<b>Year Ended December 31,</b>		<b>2011</b>	<b>2010</b>	<b>2009 (2)</b>
	<b>2013</b>	<b>2012</b>	<b>(1)</b>	<b>2010</b>	<b>2009 (2)</b>	
Ratio of earnings to combined fixed charges and preferred stock dividends	1.5x	1.4x	1.4x	x	2.9x	x

(1) Due to a loss in 2011, earnings were insufficient to cover fixed charges by \$36.1 million.

(2) Due to a loss in 2009, earnings were insufficient to cover fixed charges by \$193.2 million.



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The following table sets forth our cash and capitalization as of March 31, 2014, on an actual basis and as adjusted to give effect to our sale of notes in this offering and the application of the estimated net proceeds as described under "Use of Proceeds." You should read this table in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations" in our Quarterly Report on Form 10-Q for the quarter ended March 31, 2014.

	<b>As of March 31, 2014</b>	
	<b>Actual</b>	<b>As Adjusted(1)</b>
<b>Assets:</b>		
Cash and cash equivalents	\$ 32,704,172	\$ 85,629,172
<b>Debt:</b>		
Debt(1)	\$ 1,263,150,263	\$ 1,263,150,263
7.375% Senior Notes due 2021 <sup>(2)</sup>	\$	\$ 55,000,000
<b>Stockholders' Equity:</b>		
Arbor Realty Trust, Inc. stockholders' equity:		
Preferred stock, cumulative, redeemable, \$0.01 par value: 100,000,000 shares authorized;		
8.25% Series A, \$38,787,500 aggregate liquidation preference; 1,551,500 shares issued and		
outstanding; 7.75% Series B, \$31,500,000 aggregate liquidation preference; 1,260,000 shares		
issued and outstanding; 8.50% Series C, \$22,500,000 aggregate liquidation preference;		
900,000 shares issued and outstanding	89,295,905	89,295,905
Common stock, \$0.01 par value per share: 500,000,000 shares authorized; 52,787,075 shares		
issued; 50,136,308 shares outstanding <sup>(3)</sup>	527,870	527,870
Additional paid-in capital	630,644,261	630,644,261
Treasury stock, at cost 2,650,767 shares	(17,100,916)	(17,100,916)
Accumulated Deficit	(212,748,410)	(212,748,410)
Accumulated other comprehensive loss	(22,728,414)	(22,728,414)
<b>Total equity</b>	<b>467,890,296</b>	<b>467,890,296</b>
<b>Total capitalization</b>	<b>\$ 1,731,040,559</b>	<b>\$ 1,786,040,559</b>

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- (1) Does not include a subsequent CLO issued April 28, 2014 for approximately \$281 million and a related reduction of financing facilities of approximately \$186 million.
- (2) Assumes no exercise of the underwriters' option to purchase up to an additional \$8.25 million principal amount of the notes.
- (3) Does not include 1,000,000 warrants.



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**DESCRIPTION OF NOTES**

We will issue the notes under a base indenture between us and U.S. Bank National Association, as trustee (the "Trustee"), as supplemented by the first supplemental indenture each to be dated as of the date of the initial issuance of the notes. In this section, we refer to the base indenture as supplemented by the first supplemental indenture with respect to the notes, collectively as the "indenture." This description of the notes supplements and, to the extent it is inconsistent, replaces the description of the general provisions of the notes and the base indenture in the accompanying prospectus. The terms of the notes include those expressly set forth in the indenture and those made part of the indenture by reference to the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act").

In this section, we use capitalized words to signify terms that are specifically defined in the indenture. You can find the definitions of certain terms used in this description under " Certain Definitions." Certain defined terms used in this description but not defined under " Certain Definitions" have the meanings assigned to them in the indenture. You may request a copy of the indenture from us as described under "Where You Can Find More Information."

The following description is a summary of the material provisions of the notes and the indenture and does not purport to be complete. This summary is subject to and is qualified by reference to all the provisions of the notes and the indenture, including the definitions of certain terms used in the indenture. We urge you to read these documents because they, and not this description, define your rights as a holder of the notes.

For purposes of this description, references to "we," "our," "us," and the "Company" refer only to Arbor Realty Trust, Inc., and not to any of its consolidated its subsidiaries.

**General**

In general, the notes:

will be our general unsecured, senior obligations;

will initially be limited to an aggregate principal amount of \$55,000,000 (or \$63,250,000 if the underwriters exercise in full their over-allotment option to purchase additional notes);

will bear cash interest from May 12, 2014 at an annual rate of 7.375% payable on February 15th, May 15th, August 15th and November 15th of each year, beginning on August 15, 2014;

will be subject to redemption at our option, in whole or in part, at any time on or after May 15, 2017, at a redemption price equal to 100% of the principal amount of the notes to be redeemed, plus accrued and unpaid interest to, but excluding, the redemption date;

will be subject to repurchase by us at the option of the holders following a Fundamental Change (as defined below under " Fundamental Change Permits Holders to Require Us to Repurchase Notes"), at a repurchase price equal to 101% of the principal amount of the notes to be repurchased, plus accrued and unpaid interest to, but excluding, the Fundamental Change Repurchase Date;

will mature on May 15, 2021, unless earlier redeemed or repurchased by us;

will be issued in minimum denominations of \$25 and integral multiples of \$25 in excess thereof;

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will be represented by one or more registered notes in global form, but in certain limited circumstances may be represented by notes in definitive form (see " Book-entry, Settlement and Clearance"); and

are expected to be listed on the NYSE within 30 days after the notes are first issued.

None of our subsidiaries, affiliates or any other person has guaranteed the payment of principal, premium, if any, or interest on the notes or has any other obligation in connection with the notes.

The indenture will not restrict our or our subsidiaries' ability to pay dividends, incur liens, sell less than substantially all of our assets, enter into transactions with affiliates, enter into sale-leaseback transactions, enter into agreements that restrict the ability of our subsidiaries to make distributions to us or make investments, issue or repurchase our other securities or secure indebtedness with the assets, stock or equity interests of our subsidiaries. As described under " Financial Covenants," the indenture restricts, but does not eliminate, our and our subsidiaries' ability to incur indebtedness, including indebtedness that would be senior to the notes. Other than as described below under " Fundamental Change Permits Holders to Require Us to Repurchase Notes" and " Consolidation, Merger or Asset Sale," the indenture does not contain any covenants or other provisions designed to afford holders of the notes protection in the event of a highly leveraged transaction involving us or in the event of a decline in our credit rating as the result of a takeover, recapitalization, highly leveraged transaction or similar restructuring involving us that could adversely affect such holders.

**Further Issuances**

We may, without the consent of the holders, reopen the indenture for the notes and issue additional notes under the indenture with the same terms as the notes offered hereby in an unlimited aggregate principal amount; *provided*, that if the additional notes are not fungible with the notes initially offered hereby for U.S. federal income tax purposes, the additional notes will have a separate CUSIP number. No additional notes may be issued if an event of default (as defined under " Events of Default") has occurred and is continuing with respect to the notes.

**Listing**

No current market exists for the notes. We intend to apply to list the notes on the NYSE under the symbol "ABRN." If the application is approved, trading of the notes is expected to begin within 30 days after the date of initial issuance of the notes.

**Trading Characteristics of the Notes**

We expect the notes to trade at a price that takes into account the value, if any, of accrued and unpaid interest. This means that purchasers will not pay, and sellers will not receive, accrued and unpaid interest on the notes that is not included in their trading price. Any portion of the trading price of a note that is attributable to accrued and unpaid interest will be treated as a payment of interest for U.S. federal income tax purposes and will not be treated as part of the amount realized for purposes of determining gain or loss on disposition of the notes.

**Purchase and Cancellation**

We will cause all notes surrendered for payment, repurchase (including as described below), redemption or registration of transfer or exchange, if surrendered to any person other

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than the Trustee (including any of our agents, subsidiaries or affiliates), to be delivered to the Trustee for cancellation. All notes delivered to the Trustee shall be cancelled promptly by the Trustee in accordance with its customary procedures. No notes shall be authenticated in exchange for any notes cancelled as provided in the indenture.

We may, to the extent permitted by law, and directly or indirectly (regardless of whether such notes are surrendered to us), repurchase notes in the open market or otherwise, whether by us or our subsidiaries or through a private or public tender or exchange offer or through counterparties to private agreements, including by cash-settled swaps or other derivatives. We will cause any notes so repurchased to be surrendered to the Trustee for cancellation, and they will no longer be considered "outstanding" under the indenture upon their repurchase.

**Payments on the Notes; Paying Agent and Registrar**

The following subsection replaces the description set forth under "Description of Debt Securities Payment and Transfer" in the accompanying prospectus.

We will pay the principal of, and interest on, notes in global form registered in the name of or held by DTC or its nominee by wire transfer in immediately available funds to DTC or its nominee, as the case may be, as the registered holder of such global note.

We will pay the principal of any certificated notes at the office or agency designated by us for that purpose. We have initially designated the Trustee as our paying agent and registrar and its agency in St. Paul, Minnesota as a place where notes may be presented for payment or for registration of transfer. We may, however, change the paying agent or registrar without prior notice to the holders of the notes, and we may act as paying agent or registrar. Interest on certificated notes will be payable (i) to holders having an aggregate principal amount of \$5,000,000 or less, by check mailed to the holders of these notes and (ii) to holders having an aggregate principal amount of more than \$5,000,000, either by check mailed to each holder or, upon application by a holder to the registrar not later than the relevant Regular Record Date (as defined below under "Interest"), by wire transfer in immediately available funds to that holder's account within the United States, which application shall remain in effect until the holder notifies, in writing, the registrar to the contrary.

**Exchange, Registration and Transfer**

In addition to the limitations described under "Description of Debt Securities Exchange, Registration and Transfer" in the accompanying prospectus, we will not be required to register the transfer of or exchange of any note surrendered for required repurchase, except any portion of such note being repurchased in part.

The registered holder of a note will be treated as its owner for all purposes.

**Interest**

The notes will bear cash interest at a rate of 7.375% per year until maturity. Interest on the notes will accrue from May 12, 2014 or from the most recent date on which interest has been paid or duly provided for. Interest will be payable quarterly in arrears on February 15<sup>th</sup>, May 15<sup>th</sup>, August 15<sup>th</sup> and November 15<sup>th</sup> of each year (each, an "Interest Payment Date"), beginning on August 15, 2014.

Interest will be paid to the person in whose name a note is registered at the close of business on February 1<sup>st</sup>, May 1<sup>st</sup>, August 1<sup>st</sup> and November 1<sup>st</sup>, as the case may be, immediately preceding the relevant Interest Payment Date (each, a "Regular Record Date"). Interest on the notes will be computed on the basis of a 360-day year composed of twelve

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30-day months. The amount of interest payable for any period shorter than a full quarterly interest period will be computed on the basis of the number of days elapsed in a 90-day quarter of three 30-day months.

If any Interest Payment Date, the maturity date or any earlier Fundamental Change Repurchase Date or Redemption Date of a note falls on a day that is not a Business Day, the required payment will be made on the next succeeding Business Day and no interest on such payment will accrue in respect of the delay. The term "Business Day" means, with respect to any note, any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.

Unless the context otherwise requires, all references to interest in this prospectus supplement include special interest, if any, payable at our election as the sole remedy relating to the failure to comply with our reporting obligations as described under " Events of Default."

**Ranking**

The notes will be our general unsecured obligations and will rank senior in right of payment to all of our existing and future indebtedness that is expressly subordinated in right of payment to the notes. The notes will rank equally in right of payment with all of our existing and future liabilities that are not subordinated. The notes will effectively rank junior in right of payment to any of our secured indebtedness to the extent of the value of the assets securing such indebtedness. The notes will rank structurally junior in right of payment to all existing and future indebtedness (including trade payables) incurred by our subsidiaries. In the event of our bankruptcy, liquidation, reorganization or other winding up, our assets that secure secured debt will be available to pay obligations on the notes only after all indebtedness under such secured debt has been repaid in full from such assets. We advise you that there may not be sufficient assets remaining to pay amounts due on any or all the notes then outstanding.

As of March 31, 2014, our total consolidated indebtedness was \$1.263 billion, all of which was indebtedness of our subsidiaries and approximately \$0.249 billion of which was guaranteed by us. After giving effect to the issuance of the notes (assuming no exercise of the underwriters' over-allotment option to purchase additional notes), our total consolidated indebtedness would have been approximately \$1.318 billion.

**Optional Redemption**

No "sinking fund" is provided for the notes, which means that we are not required to redeem or retire the notes periodically. Prior to May 15, 2017, the notes will not be redeemable. On or after May 15, 2017 and prior to the maturity date, we may redeem for cash all or part of the notes, upon not less than 45 nor more than 60 calendar days' notice before the redemption date to the Trustee, the paying agent and each holder of notes. The redemption price will be equal to 100% of the principal amount of the notes to be redeemed, *plus* accrued and unpaid interest to, but excluding, the redemption date (unless the redemption date falls after a Regular Record Date but on or prior to the immediately succeeding Interest Payment Date, in which case we will pay the full amount of accrued and unpaid interest to the holder of record as of the close of business on such Regular Record Date, and the redemption price will be equal to 100% of the principal amount of the notes to be redeemed). The redemption date must be a Business Day.

If we decide to redeem fewer than all of the outstanding notes, the Trustee will select the notes to be redeemed (in principal amounts of \$25 or integral multiples of \$25 in excess

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thereof) by lot, on a *pro rata* basis or by another method the Trustee considers to be fair and appropriate in accordance with DTC procedures.

No notes may be redeemed if the principal amount of the notes has been accelerated, and such acceleration has not been rescinded, on or prior to the redemption date (except in the case of an acceleration resulting from a default by us in the payment of the redemption price with respect to such notes).

**Fundamental Change Permits Holders to Require Us to Repurchase Notes**

If a Fundamental Change (as defined below in this section) occurs at any time, holders will have the right, at their option, to require us to repurchase for cash any or all of their notes, or any portion of the principal amount thereof that is equal to \$25 or an integral multiple of \$25 in excess thereof. The price we are required to pay is equal to 101% of the principal amount of the notes to be repurchased, plus accrued and unpaid interest to, but excluding, the Fundamental Change Repurchase Date (unless the Fundamental Change Repurchase Date falls after a Regular Record Date but on or prior to the Interest Payment Date to which such Regular Record Date relates, in which case we will instead pay the full amount of accrued and unpaid interest to the holder of record on such Regular Record Date, and the Fundamental Change Repurchase Price will be equal to 101% of the principal amount of the notes to be repurchased). The Fundamental Change Repurchase Date will be a date specified by us that is not less than 20 or more than 35 calendar days following the date of our Fundamental Change Company Notice as described below.

A "Fundamental Change" will be deemed to have occurred at the time after the notes are originally issued if any of the following occurs:

(1) a "person" or "group" within the meaning of Section 13(d) of the Exchange Act, other than us, our subsidiaries and our and their employee benefit plans, has become the direct or indirect "beneficial owner," as defined in Rule 13d-3 under the Exchange Act, of our common stock representing more than 50% of the voting power of our common stock;

(2) the consummation of (A) any recapitalization, reclassification or change of our common stock (other than changes resulting from a subdivision or combination) as a result of which our common stock would be converted into, or exchanged for, stock, other securities, other property or assets, (B) any stock exchange, consolidation or merger of us pursuant to which our common shares will be converted into cash, securities or other property; or (C) any sale, lease or other transfer in one transaction or a series of transactions of all or substantially all of the consolidated assets of us and our subsidiaries, taken as a whole, to any person other than one of our subsidiaries; *provided, however*, that a transaction described in subclause (A) or (B) in which the holders of all classes of our common equity immediately prior to such transaction own, directly or indirectly, more than 50% of all classes of common equity of the continuing or surviving corporation or transferee or the parent thereof immediately after such transaction shall not be a Fundamental Change pursuant to this clause (2);

(3) "continuing directors" (as defined below) cease to constitute at least a majority of our board of directors; or

(4) our stockholders approve any plan or proposal for the liquidation or dissolution of us.

The term "continuing director" means a director who either was a member of our board of directors on the date of this prospectus supplement or who becomes a member of our board of directors subsequent to that date and whose election, appointment or nomination for election by our stockholders is duly approved by a majority of the continuing directors on our board of directors at the time of such approval, either by a specific vote or by approval of the proxy statement issued by us on behalf of our entire board of directors in which such individual is named as nominee for director.

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On or before the 20<sup>th</sup> day after the occurrence of a Fundamental Change, we will provide to all holders of the notes and the Trustee and paying agent a notice of the occurrence of the Fundamental Change and of the resulting repurchase right (a "Fundamental Change Company Notice"). Such notice shall state, among other things:

- the CUSIP number and the designation of the notes;
- the events causing a Fundamental Change;
- the date of the Fundamental Change;
- the last date on which a holder may exercise its repurchase right;
- the Fundamental Change Repurchase Price;
- the Fundamental Change Repurchase Date;
- the name and address of the paying agent; and
- the procedures that holders must follow to require us to repurchase their notes.

Simultaneously with providing such Fundamental Change Company Notice, we will publish a notice containing this information in a newspaper of general circulation in the City of New York or publish the information on our website or through such other public medium as we may use at that time.

To exercise the repurchase right, holders of the notes must deliver, on or before the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date, the notes to be repurchased, duly endorsed for transfer, together with a written repurchase notice (a "Fundamental Change Repurchase Notice"), to the paying agent. Each Fundamental Change Repurchase Notice must state:

- if certificated, the certificate numbers of the holder's notes to be delivered for repurchase or if not certificated, the notice must comply with appropriate DTC procedures;
- the portion of the principal amount of notes to be repurchased, which must be \$25 or an integral multiple of \$25 in excess thereof; and
- that the notes are to be repurchased by us pursuant to the applicable provisions of the notes and the indenture.

Holders may withdraw any Fundamental Change Repurchase Notice (in whole or in part) by a written notice of withdrawal delivered to the paying agent prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date. The notice of withdrawal shall state:

- the principal amount of the withdrawn notes;



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if certificated notes have been issued, the certificate numbers of the withdrawn notes or, if not certificated, the notice must comply with appropriate DTC procedures; and

the principal amount, if any, which remains subject to the Fundamental Change Repurchase Notice.

We will be required to repurchase the notes on the Fundamental Change Repurchase Date. Holders will receive payment of the Fundamental Change Repurchase Price on the later of (i) the Fundamental Change Repurchase Date and (ii) the time of book-entry transfer or the

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delivery of the notes. If the paying agent holds money sufficient to pay the Fundamental Change Repurchase Price of the notes on the Fundamental Change Repurchase Date, then:

the notes will cease to be outstanding and interest will cease to accrue (whether or not book-entry transfer of the notes is made or whether or not the notes are delivered to the paying agent); and

all other rights of the holder will terminate (other than the right to receive the Fundamental Change Repurchase Price).

In connection with any repurchase offer pursuant to a Fundamental Change Company Notice, we will, if required:

comply with the provisions of Rule 13e-4, Rule 14e-1 and any other tender offer rules under the Exchange Act that may then be applicable;

file a Schedule TO or any other required schedule under the Exchange Act; and

otherwise comply with all federal and state securities laws in connection with any offer by us to repurchase the notes,

in each case, so as to permit the rights and obligations under this " Fundamental Change Permits Holders to Require Us to Repurchase Notes" to be exercised in the time and in the manner specified in the indenture.

No notes may be repurchased on any date at the option of holders upon a Fundamental Change if the principal amount of the notes has been accelerated, and such acceleration has not been rescinded, on or prior to such date (except in the case of an acceleration resulting from a default by us in the payment of the Fundamental Change Repurchase Price with respect to such notes).

The repurchase rights of the holders could discourage a potential acquirer of us. The Fundamental Change repurchase feature, however, is not the result of management's knowledge of any specific effort to obtain control of us by any means or part of a plan by management to adopt a series of anti-takeover provisions.

The term Fundamental Change is limited to specified transactions and may not include other events that might adversely affect our financial condition. In addition, the requirement that we offer to repurchase the notes upon a Fundamental Change may not protect holders in the event of a highly leveraged transaction, reorganization, merger or similar transaction involving us.

Furthermore, holders may not be entitled to require us to repurchase their notes upon a Fundamental Change in certain circumstances involving a significant change in the composition of our board of directors, including in connection with a proxy contest where our board of directors does not endorse a dissident slate of directors but approves them for purposes of the definition of "continuing directors" above.

The definition of Fundamental Change includes a phrase relating to the conveyance, transfer, sale, lease or disposition of "all or substantially all" of our consolidated assets. There is no precise, established definition of the phrase "substantially all" under applicable law. Accordingly, the ability of a holder of the notes to require us to repurchase its notes as a result of the conveyance, transfer, sale, lease or other disposition of less than all of our assets may be uncertain.

If a Fundamental Change were to occur, we may not have enough funds to pay the Fundamental Change Repurchase Price. Our ability to repurchase the notes for cash may be

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limited by restrictions on our ability to obtain funds for such repurchase through dividends from our subsidiaries, the terms of our then existing borrowing arrangements or otherwise. See "Risk Factors Risks Related to the Notes We may not have the ability to raise the funds necessary to repurchase the notes upon a Fundamental Change." If we fail to repurchase the notes when required following a Fundamental Change, we will be in default under the indenture. In addition, we have, and may in the future incur, other indebtedness with similar change in control provisions permitting our holders to accelerate or to require us to repurchase our indebtedness upon the occurrence of similar events or on some specific dates.

**Financial Covenants**

We will not, and will not permit any our Subsidiaries to, incur any Debt (as defined under " Certain Definitions"), other than Intercompany Debt (as defined under " Certain Definitions"), including that which is subordinate in right of payment to the notes, if, immediately after giving pro forma effect to the incurrence of such Debt and the application of the proceeds thereof, our Senior Debt Service Coverage Ratio (as defined under " Certain Definitions") would be less than 1.2 to 1.0 or if our Debt to Equity Ratio (as defined under " Certain Definitions") would be greater than 6.0 to 1.0. In giving pro forma effect to the incurrence of such Debt, (1) with respect to the Debt to Equity Ratio, the principal amount of such Debt, after taking into account the application of the proceeds thereof, will be added to our assets and liabilities as of the last day of the Testing Period (as defined under " Certain Definitions") and (2) with respect to the Senior Debt Service Coverage Ratio, (i) our Operating Cash Flow (as defined under " Certain Definitions") for the applicable Testing Period will be increased by an amount equal to the product of (x) the principal amount of such Debt and (y) our average yield on earning assets during the applicable Testing Period and (ii) our Senior Debt Service (as defined under " Certain Definitions") will be increased by the interest that would have been paid on such Debt had it been issued on the first day of the applicable Testing Period.

Except as described in the immediately preceding paragraph, the indenture does not include financial covenants that would limit or restrict our or our Subsidiaries' ability to pay dividends, incur liens, sell less than substantially all of our assets, enter into transactions with affiliates, enter into sale-leaseback transactions, enter into agreements that restrict the ability of our subsidiaries to make distributions to us or make investments, issue or repurchase our other securities or secure indebtedness with the assets, stock or equity interests of our subsidiaries.

After the date the notes are first issued, if we issue senior unsecured debt securities in an aggregate principal amount equal to or greater than \$200.0 million pursuant to an indenture that contains financial covenants that are different than the financial covenants applicable to the notes, we will amend the indenture with respect to the notes, without the consent of holders of the notes, so that the financial covenants applicable to such senior unsecured debt securities replace the financial covenants applicable to notes. See " Modification of the Indenture."

**Consolidation, Merger or Asset Sale**

This section replaces the description set forth under "Description of Debt Securities Specific Terms of Each Series of Debt Securities in the Prospectus Supplement Consolidation, Merger or Asset Sale" in the accompanying prospectus.

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We may consolidate with, or sell, lease, convey or transfer all or substantially all of our assets to, or merge with or into, any other entity, provided that the following conditions are met:

we shall be the continuing entity, or the successor entity (if other than us) formed by or resulting from any consolidation or merger or which shall have received the transfer of assets shall be an entity organized and existing under the laws of the United States of America, any state thereof or the District of Columbia and such entity (if other than us) shall expressly assume by supplemental indenture all of our obligations under the notes and the indenture;

immediately after giving effect to the transaction, no event of default under the indenture, and no event which, after notice or the lapse of time, or both, would become an event of default, shall have occurred and be continuing; and

an officers' certificate and legal opinion covering these conditions shall be delivered to the Trustee.

In the event of any transaction described in and complying with the conditions listed in the immediately preceding paragraph in which we are not the continuing entity, the successor person formed or remaining shall succeed, and be substituted for, and may exercise every right and power of ours, and we shall be discharged from our obligations under the notes and the indenture except in the case of any such lease.

Although these types of transactions are permitted under the indenture, certain of the foregoing transactions could constitute a Fundamental Change permitting each holder to require us to repurchase the notes of such holder as described above.

**Events of Default**

This section replaces the description set forth under "Description of Debt Securities Events of Default and Remedies" in the accompanying prospectus.

Each of the following is an "event of default" with respect to the notes:

default in the payment of any principal amount or any redemption price or repurchase price (including, but not limited to, the Fundamental Change Repurchase Price) due with respect to the notes, when the same becomes due and payable, whether at maturity, upon redemption or repurchase, by acceleration or otherwise;

default in payment of any interest (including special interest, if any) under the notes, which default continues for 30 calendar days;

our failure to provide a Fundamental Change Company Notice as described under "Fundamental Change Permits Holders to Require Us to Repurchase Notes" when due, which default continues for five calendar days;

our failure to comply with our obligations under "Financial Covenants" and " Consolidation, Merger or Asset Sale";

our failure to comply with any other term, covenant or agreement in the notes or the indenture upon our receipt of notice of such default from the Trustee or from holders of not less than 25% in aggregate principal amount of the notes then outstanding, and the failure to cure (or obtain a waiver of) such default within 60 calendar days after receipt of such notice;

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default in the payment of principal when due on, or any other default resulting in the acceleration of, other indebtedness of ours or of any significant subsidiary of ours for borrowed money where the aggregate principal amount with respect to which the default or acceleration has occurred exceeds \$25 million and such indebtedness is not discharged, or such default in payment or acceleration is not cured or rescinded, prior to written notice of acceleration of the notes;

failure by us or any of our significant subsidiaries to pay final judgments entered by a court or courts of competent jurisdiction aggregating in excess of \$25 million, which judgments are not paid, discharged or stayed for a period of 30 calendar days after such judgment became final and non-appealable; and

certain events of bankruptcy, insolvency or reorganization affecting us or any of our significant subsidiaries.

As used in the indenture, "significant subsidiary" means a significant subsidiary of ours as defined in Regulation S-X promulgated under the Securities Act, *provided* that it shall not include (i) any entity consolidated by us where we hold 50 percent or less of the voting power of such entity or (ii) any bankruptcy remote, special purpose entity, used to securitize assets and consolidated by us, whose indebtedness is without recourse to us.

We are required to notify the Trustee promptly in writing upon becoming aware of the occurrence of any default under the indenture known to us. The Trustee is then required within 90 calendar days of becoming aware of the occurrence of any default to give to the registered holders of the notes notice of all uncured defaults known to it. However, the Trustee may withhold notice to the holders of the notes of any default, except defaults in payment of principal or interest (including special interest, if any) on the notes, if the Trustee, in good faith, determines that the withholding of such notice is in the interest of the holders. We are also required to deliver to the Trustee, on or before a date not more than 120 calendar days after the end of each fiscal year, a written statement as to compliance with the indenture, including whether or not any default has occurred.

If an event of default specified in the last bullet point listed above occurs with respect to us, the principal amount of the notes and accrued and unpaid interest (including special interest, if any) on the outstanding notes will automatically become due and payable. If any other event of default occurs and is continuing, the Trustee or the holders of at least 25% in aggregate principal amount of the outstanding notes may declare the principal amount of the notes and accrued and unpaid interest (including special interest, if any) on the outstanding notes to be due and payable immediately. Thereupon, the Trustee may, in its discretion, proceed to protect and enforce the rights of the holders of notes by appropriate judicial proceedings.

After a declaration of acceleration, but before a judgment or decree for payment of the money due has been obtained by the Trustee, the holders of a majority in aggregate principal amount of notes outstanding, by written notice to us and the Trustee, may rescind and annul such declaration (except with respect to nonpayment of principal or interest) if:

such rescission would not conflict with any judgment or decree of a court of competent jurisdiction;

interest on overdue installments of interest (including special interest, if any) (to the extent the payment of such interest is lawful) and on overdue principal, which has become due otherwise than by such declaration of acceleration, has been paid;

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we have paid the Trustee its agreed upon compensation and reimbursed the Trustee for its expenses, disbursements and advances (including those of its agents and counsel); and

all events of default (other than the non-payment of the principal amount and any accrued and unpaid interest and special interest, if any, that have become due solely by such declaration of acceleration) have been cured or waived.

Each holder shall have the right to receive payment or delivery, as the case may be, of the principal (including the redemption price, repurchase price or Fundamental Change Repurchase Price, if applicable) of, and accrued and unpaid interest (including special interest), if any, on, its notes, on or after the respective due dates expressed or provided for in the indenture, or to institute suit for the enforcement of any such payment or delivery, as the case may be, and such right to receive such payment or delivery, as the case may be, on or after such respective dates shall not be impaired or affected without the consent of such holder.

The holders of a majority in aggregate principal amount of outstanding notes will have the right to direct the time, method and place of any proceedings for any remedy available to the Trustee, subject to limitations specified in the indenture. No holder of the notes may pursue any remedy under the indenture, except in the case of a default in the payment of principal or interest (including special interest, if any), on the notes, unless:

the holder has given the Trustee written notice of an event of default;

the holders of at least 25% in aggregate principal amount of outstanding notes make a written request to the Trustee to pursue the remedy, and offer security or indemnity reasonably satisfactory to the Trustee against any costs, liability or expense of the Trustee incurred or to be incurred in pursuing the remedy;

the Trustee fails to comply with the request within 60 calendar days after receipt of the request and offer of indemnity; and

the Trustee does not receive an inconsistent direction from the holders of a majority in aggregate principal amount of outstanding notes during the 60 calendar day period.

The holders of a majority in aggregate principal amount of the notes outstanding may, on behalf of the holders of all the notes, waive any past default or event of default under the indenture and its consequences, except:

our failure to pay principal of or interest (including special interest, if any) on any note when due;

our failure to pay the redemption price on the redemption date in connection with a redemption by us or the Fundamental Change Repurchase Price on the Fundamental Change Repurchase Date in connection with a repurchase by us in connection with a Fundamental Change; or

our failure to comply with any of the provisions of the indenture, the non-compliance with which would require the consent of the holder of each outstanding note affected.

Notwithstanding the foregoing, the indenture will provide that, to the extent elected by us, the sole remedy for an event of default relating to (i) the failure to comply with the reporting obligations in the indenture described under " Reports" below or (ii) our failure to comply with the requirements of Section 314(a)(1) of the Trust Indenture Act will, for the first 365 days after the occurrence of such an event of default, consist exclusively of the right to receive special interest on the notes at an annual rate equal to 0.50% of the principal amount

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of the notes. This special interest will be paid semi-annually in arrears, with the first semi-annual payment due on the first Interest Payment Date following the date on which the special interest began to accrue on any notes. The special interest will accrue on all outstanding notes from and including the date on which an event of default relating to a failure to comply with the reporting obligations in the indenture first occurs to, but not including, the 365<sup>th</sup> day thereafter (or such earlier date on which the event of default shall have been cured or waived). On such 365<sup>th</sup> day (or earlier, if the event of default relating to the reporting obligations is cured or waived prior to such 365<sup>th</sup> day), such special interest will cease to accrue and, if the event of default relating to reporting obligations has not been cured or waived prior to such 365<sup>th</sup> day, the notes will be subject to acceleration as provided above. The provisions of the indenture described in this paragraph will not affect the rights of holders in the event of the occurrence of any other event of default. In the event we do not elect to pay special interest upon an event of default in accordance with this paragraph, the notes will be subject to acceleration as provided above.

If we elect to pay special interest in connection with an event of default relating to (i) the failure to comply with reporting obligations in the indenture described under " Reports" below or (ii) our failure to comply with the requirements of Section 314(a)(1) of the Trust Indenture Act in accordance with the immediately preceding paragraph, we will notify all holders of notes and the Trustee and paying agent in writing of such election on or before the close of business on the date on which such event of default first occurs.

If any portion of the amount payable on the notes upon acceleration is considered by a court to be unearned interest, the court could disallow recovery of any such portion.

**Modification of the Indenture**

This section replaces the description set forth under "Description of Debt Securities Specific Terms of Each Series of Debt Securities in the Prospectus Supplement Modification of Indentures" in the accompanying prospectus.

Subject to certain exceptions, we and the Trustee may amend the indenture or the notes with the consent of the holders of not less than a majority in aggregate principal amount of the notes then outstanding. However, the consent of each holder of outstanding notes affected is required with respect to any amendment which would:

impair or adversely affect the manner of calculation or rate of accrual of interest (including special interest) on the notes or change the time of payment thereof;

make the notes payable in money or securities other than that stated in the notes;

change the stated maturity of the notes;

reduce the principal amount, redemption price or Fundamental Change Repurchase Price with respect to the notes;

make any change that impairs or adversely affects the rights of a holder to require us to repurchase the notes;

impair the right to institute suit for the enforcement of any payment with respect to the notes;

change our obligation to redeem any notes called for redemption on a redemption date in a manner adverse to the holders;

change our obligation to maintain an office or agency for payment and presentation of notes;

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make the notes subordinate in right of payment to any other indebtedness;

reduce the percentage in aggregate principal amount of notes outstanding required to modify or amend the indenture; or

make any change in the amendment provisions that require each holder's consent or in the waiver provisions under the indenture.

Without the consent of any holder of notes, we and the Trustee may amend the indenture:

to evidence a successor to us and the assumption by that successor of our obligations under the indenture and the notes;

to provide for the assumption of our obligations to the holders of the notes in accordance with the terms of the indenture if any reclassification or exchange of our common stock or any consolidation, merger or sale of all or substantially all of our property or assets occurs;

to add to our covenants for the benefit of the holders of the notes or to surrender any right or power conferred upon us;

to secure our obligations in respect of the notes;

to add guarantees with respect to the notes;

to evidence and provide the acceptance of the appointment of a successor trustee under the indenture;

to provide for the issuance of additional notes in accordance with the limitations set forth in the indenture as of the date of the indenture;

to comply with the requirements of the SEC in order to effect or maintain qualification of the indenture under the Trust Indenture Act, as contemplated by the indenture or otherwise;

to cure any ambiguity, omission, defect or inconsistency in the indenture which we may deem necessary or desirable and which shall not be inconsistent with provisions of the indenture, provided that such modification or amendment does not, in the good faith opinion of our board of directors, adversely affect the interests of the holders of notes in any material respect;

to add or modify any provision with respect to matters or questions arising under the indenture which we may deem necessary or desirable and which will not adversely affect the interests of the holders of the notes in any material respect as evidenced in an officers' certificate;

to make any change to the indenture or the notes to conform the terms thereof to the "Description of Notes" section in this prospectus supplement, as supplemented by the related pricing term sheet, as evidenced in an officers' certificate to the Trustee;



to provide for the issuance of additional notes; or

if we or our consolidated Subsidiaries issue senior unsecured debt securities in an aggregate principal amount equal to or greater than \$200.0 million pursuant to an indenture that contains financial covenants that are different than the financial covenants applicable to the notes, to add or modify any of the financial covenants applicable to the notes so that the financial covenants applicable to such senior unsecured debt securities replace the financial covenants applicable to the notes.

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Holders do not need to approve the particular form of any proposed amendment. It will be sufficient if such holders approve the substance of the proposed amendment. After an amendment under the indenture becomes effective, we are required to mail to the holders a notice briefly describing such amendment. However, the failure to give such notice to all the holders, or any defect in the notice, will not impair or affect the validity of the amendment.

**Discharge**

This section replaces the description set forth under "Description of Debt Securities Discharge, Defeasance and Covenant Defeasance" in the accompanying prospectus.

We may satisfy and discharge our obligations under the indenture by delivering to the securities registrar for cancellation all outstanding notes or by depositing with the Trustee or delivering to the holders, as applicable, after the notes have become due and payable, whether at maturity, any Fundamental Change Repurchase Date or otherwise, cash sufficient to pay all of the outstanding notes and paying all other sums payable under the indenture by us. Such discharge is subject to terms contained in the indenture.

**Calculations in Respect of Notes**

Except as otherwise provided above, we will be responsible for making all calculations called for under the notes. These calculations include, but are not limited to, determinations of accrued interest payable on the notes. We will make all these calculations in good faith and, absent manifest error, our calculations will be final and binding on holders of notes. We will provide a schedule of our calculations to the Trustee, and the Trustee is entitled to rely conclusively upon the accuracy of our calculations without independent verification. The Trustee will forward our calculations to any holder of notes upon the written request of that holder. Neither the Trustee nor the paying agent will be responsible or liable for our calculations.

**Inapplicable Provisions of the Base Indenture**

The provisions described under "Description of Debt Securities Subordination" in the accompanying prospectus will not apply to the notes.

**Reports**

The indenture will provide that during any period in which we are not subject to Section 13 or 15(d) of the Exchange Act and any notes are outstanding, we will (i) transmit by mail (or other permissible means under the Exchange Act) to all holders of notes, without cost to such holders, copies of annual reports and quarterly reports containing information that is substantially similar to the information that is required to be contained in such reports that we would have been required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act if we were subject thereto and (ii) promptly, upon request, supply copies of such reports to any prospective holder of notes. We will mail (or otherwise provide) the information to the holders of notes within five days after the respective dates by which a periodic report on Form 10-K or Form 10-Q, as the case may be, in respect of such information would have been required to be filed with the SEC if we were subject to Section 13 or 15(d) of the Exchange Act as a non-accelerated filer as such term is defined in Rule 12b-2 under the Exchange Act.

The indenture provides that any documents or reports that we are required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act must be filed by us with the Trustee within 15 days after the same are required to be filed with the SEC (giving effect to any grace

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period provided by Rule 12b-25 under the Exchange Act). Documents filed by us with the SEC via the EDGAR system will be deemed to be filed with the Trustee as of the time such documents are filed via EDGAR; however, the Trustee will have no responsibility to determine whether such filing via EDGAR has been made.

**Trustee**

U.S. Bank National Association will be the Trustee, registrar and paying agent. If an event of default occurs and is continuing, the Trustee will be required to use the degree of care and skill of a prudent person in the conduct of such person's own affairs. The Trustee will become obligated to exercise any of its powers under the indenture at the request of any of the holders of any notes only after those holders have offered the Trustee indemnity satisfactory to it.

If the Trustee becomes one of our creditors, it will be subject to limitations on its rights to obtain payment of claims or to realize on some property received for any such claim, as security or otherwise. The Trustee is permitted to engage in other transactions with us. If, however, it acquires any conflicting interest, it must eliminate that conflict or resign.

U.S. Bank National Association, in each of its capacities, including without limitation as Trustee, registrar and paying agent, assumes no responsibility or liability for the accuracy or completeness of the information concerning us or our affiliates or any other party contained in this document or the related documents or for any failure by us or any other party to disclose events that may have occurred and may affect the significance or accuracy of such information.

**Governing Law**

The indenture provides that it and the notes, and any claim, controversy or dispute arising under or related to the indenture or the notes, will be governed by and construed in accordance with the laws of the State of New York.

**Book-entry, Settlement and Clearance**

This section replaces the description set forth under "Description of Debt Securities Book Entry, Delivery and Form" in the accompanying prospectus.

***The Global Notes***

The notes will be initially issued in the form of one or more registered notes in global form, without interest coupons (the "global notes"). Upon issuance, each of the global notes will be deposited with the Trustee as custodian for DTC and registered in the name of Cede & Co., as nominee of DTC.

Ownership of beneficial interests in a global note will be limited to persons who have accounts with DTC ("DTC participants") or persons who hold interests through DTC participants. We expect that under procedures established by DTC:

upon deposit of a global note with DTC's custodian, DTC will credit portions of the principal amount of the global note to the accounts of the DTC participants designated by the underwriters; and

ownership of beneficial interests in a global note will be shown on, and transfer of ownership of those interests will be effected only through, records maintained by DTC

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(with respect to interests of DTC participants) and the records of DTC participants (with respect to other owners of beneficial interests.

Beneficial interests in global notes may not be exchanged for notes in physical, certificated form except in the limited circumstances described below.

***Book-entry Procedures for the Global Notes***

All interests in the global notes will be subject to the operations and procedures of DTC. We provide the following summary of those operations and procedures solely for the convenience of investors. The operations and procedures of DTC are controlled by that settlement system and may be changed at any time. Neither we, the Trustee nor the underwriters are responsible for those operations or procedures.

DTC has advised us that it is:

a limited purpose trust company organized under the laws of the State of New York;

a "banking organization" within the meaning of the New York State Banking Law;

a member of the Federal Reserve System;

a "clearing corporation" within the meaning of the Uniform Commercial Code; and

a "clearing agency" registered under Section 17A of the Exchange Act.

DTC was created to hold securities for its participants and to facilitate the clearance and settlement of securities transactions between its participants through electronic book-entry changes to the accounts of its participants. DTC's participants include securities brokers and dealers, including the underwriters; banks and trust companies; clearing corporations and other organizations. Indirect access to DTC's system is also available to others such as banks, brokers, dealers and trust companies; these indirect participants clear through or maintain a custodial relationship with a DTC participant, either directly or indirectly. Investors who are not DTC participants may beneficially own securities held by or on behalf of DTC only through DTC participants or indirect participants in DTC.

So long as DTC's nominee is the registered owner of a global note, that nominee will be considered the sole owner or holder of the notes represented by that global note for all purposes under the indenture. Except as provided below, owners of beneficial interests in a global note:

will not be entitled to have notes represented by the global note registered in their names;

will not receive or be entitled to receive physical, certificated notes; and

will not be considered the owners or holders of the notes under the indenture for any purpose, including with respect to the giving of any direction, instruction or approval to the Trustee under the indenture.

As a result, each investor who owns a beneficial interest in a global note must rely on the procedures of DTC to exercise any rights of a holder of notes under the indenture (and, if the investor is not a participant or an indirect participant in DTC, on the procedures of the DTC participant through which the investor owns its interest).

Payments of principal and interest with respect to the notes represented by a global note will be made by the Trustee to DTC's nominee as the registered holder of the global note. Neither we nor the Trustee will have any responsibility or liability for the payment of amounts



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to owners of beneficial interests in a global note, for any aspect of the records relating to or payments made on account of those interests by DTC, or for maintaining, supervising or reviewing any records of DTC relating to those interests.

Payments by participants and indirect participants in DTC to the owners of beneficial interests in a global note will be governed by standing instructions and customary industry practice and will be the responsibility of those participants or indirect participants and DTC.

Transfers between participants in DTC will be effected under DTC's procedures and will be settled in same-day funds.

### ***Certificated Notes***

Notes in physical, certificated form will be issued and delivered to each person that DTC identifies as a beneficial owner of the related notes only if:

DTC notifies us at any time that it is unwilling or unable to continue as depository for the global notes and a successor depository is not appointed within 90 days;

DTC ceases to be registered as a clearing agency under the Exchange Act and a successor depository is not appointed within 90 days; or

an event of default with respect to the notes has occurred and is continuing and such beneficial owner requests that its notes be issued in physical, certificated form.

### **Certain Definitions**

Set forth below are certain defined terms used in the indenture. Reference is made to the indenture for a full disclosure of all such terms, as well as any other capitalized terms used herein for which no definition is provided.

"Capitalized Lease Obligations" means obligations under a lease that are required to be capitalized for financial reporting purposes in accordance with GAAP. The amount of a Capitalized Lease Obligation is the capitalized amount of such obligation as would be required to be reflected on the balance sheet prepared in accordance with GAAP of the applicable Person as of the applicable date.

"Debt to Equity Ratio" means, with respect to the Company on any date, the ratio of (i) Total Liabilities (other than the TRUPs Indebtedness) to (ii) Tangible Capital Base.

"Debt" means, for any Person, (a) obligations created, issued or incurred by such Person for borrowed money (whether by loan, the issuance and sale of debt securities or the sale of property to another Person subject to agreement, contingent or otherwise, to repurchase such property from such Person); (b) obligations of such Person to pay the deferred purchase or acquisition price of property or services, other than trade accounts payable (other than for borrowed money) arising, and accrued expenses incurred, in the ordinary course of business so long as such trade accounts payable are payable within 90 days of the date the respective goods are delivered or the respective services are rendered; (c) Debt of others secured by a lien on the property of such Person, whether or not the respective Debt so secured has been assumed by such Person; (d) obligations (contingent or otherwise) of such Person in respect of letters of credit or similar instruments issued or accepted by banks and other financial institutions for account of such Person; (e) obligations of such Person under repurchase agreements, sale/buy-back agreements or like arrangements; (f) Debt of others guaranteed by such Person; (g) all obligations of such Person incurred in connection with the acquisition or carrying of fixed assets by such Person; (h) Recourse Debt of such Person; (i) Debt of general partnerships of which such Person is secondarily or contingently liable (other than by

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endorsement of instruments in the course of collection), whether by reason of any agreement to acquire such indebtedness to supply or advance sums or otherwise; (j) Capitalized Lease Obligations of such Person; (k) all net liabilities or obligations under any interest rate, interest rate swap, interest rate cap, interest rate floor, interest rate collar, or other hedging instrument or agreement; and (l) all obligations of such Person under Financing Leases.

"Financing Lease" means any lease of property, real or personal, the obligations of the lessee in respect of which are required in accordance with GAAP to be capitalized on a balance sheet of the lessee.

"GAAP" means generally accepted accounting principles set forth in opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and in statements and pronouncements of the Financial Accounting Standards Board, or in opinions, statements or pronouncements of any other entity approved by a significant segment of the accounting profession, which are applicable to the circumstances as of the date of determination.

"Intercompany Debt" means Debt to which the only parties are the Company or any of its Subsidiaries, or Debt owed to the Company arising from routine cash management practices, but only so long as such Debt is held solely by the Company or any of its Subsidiaries.

"Operating Cash Flow" means, for any period of determination, with respect to the Company and its Subsidiaries, on a consolidated basis, net cash provided by operating activities, exclusive of the effects from changes in operating assets and liabilities, determined in accordance with GAAP applied in a manner consistent with the Company's most recent audited financial statements.

"Recourse Debt" means, for any Person on any date, without duplication, the indebtedness of such Person (and its consolidated Subsidiaries) for which such Person (and its consolidated Subsidiaries) is directly responsible or liable as obligor or guarantor (excluding obligations arising by reason of customary recourse carve-outs under a non-recourse instrument, including, but not limited to, fraud, misappropriation and environmental indemnities).

"Senior Debt Service" means, for the Testing Period, the sum of:

- (a) the expenses paid in cash of the Company and its Subsidiaries, on a consolidated basis, for the Testing Period for interest payable with respect to all Debt and all fees paid on account of or with respect thereto, minus the expenses paid in cash of the Company and its Subsidiaries, on a consolidated basis, for the Testing Period for interest payable with respect to all Subordinated Debt and all fees paid on account of or with respect thereto, in each case, determined in accordance with GAAP; plus
- (b) regularly scheduled principal amortization payments made or required to be made on account of Debt for the Testing Period (exclusive of pay-offs or pay-downs on account of such Debt), in each case determined in accordance with GAAP.

"Senior Debt Service Coverage Ratio" means, with respect to the Company, at any date of determination, the ratio of Operating Cash Flow during the Testing Period to cash flow used to pay Senior Debt Service for the Testing Period.

"Subordinated Debt" means all Debt of the Company and its Subsidiaries that is effectively subordinated in right of payment to the notes.

"Subsidiary" or "Subsidiaries" means, as to any Person, a corporation, partnership or other entity of which shares of stock or other ownership interests having ordinary voting

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power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise qualified, all references to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of the Company.

"Tangible Capital Base" means, with respect to the Company on any date, Total Assets less Total Liabilities plus the TRUPs Indebtedness.

"Testing Period" means, with respect to the Company, at any date of determination, the four consecutive fiscal quarters of the Company most recently ended immediately prior to such determination date.

"Total Assets" means, with respect to the Company on any date, all amounts that would be included under total assets on a balance sheet of the Company and its consolidated Subsidiaries at such date, determined on a consolidated basis in accordance with GAAP less intangible assets at such date, determined in accordance with GAAP.

"Total Liabilities" means, with respect to the Company on any date, all amounts that would be included under total liabilities on a balance sheet of the Company and its consolidated Subsidiaries at such date, determined on a consolidated basis in accordance with GAAP.

"TRUPs Indebtedness" means, with respect to the Company, as of any date, all amounts that would be included under junior subordinated notes on the balance sheet of the Company and its consolidated Subsidiaries at such date, determined on a consolidated basis in accordance with GAAP.



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Under the terms of, and subject to the conditions in, an underwriting agreement, the underwriters named below, for whom Deutsche Bank Securities Inc., Keefe, Bruyette & Woods, Inc. and MLV & Co. LLC are acting as the representatives, have severally agreed to purchase from us the principal amount of the notes indicated below:

<b>Names</b>	<b>Principal Amount of Notes</b>
Deutsche Bank Securities Inc.	\$ 22,550,000
Keefe, Bruyette & Woods, Inc.	11,000,000
MLV & Co. LLC	11,000,000
Credit Suisse Securities (USA) LLC	6,600,000
JMP Securities LLC	1,100,000
Ladenburg Thalmann & Co. Inc.	2,750,000
<b>Total</b>	<b>\$ 55,000,000</b>

The underwriting agreement provides that the obligations of the several underwriters to pay for and accept delivery of the notes are subject to certain conditions, including the delivery of certain legal opinions by their counsel. Subject to the terms and conditions of the underwriting agreement, the underwriters are committed to take and pay for all of the notes, if they purchase any of the notes. However, the underwriters are not committed to take or pay for the notes covered by the underwriters' over-allotment option described below.

**Commissions and Discounts**

The underwriters initially propose to offer the notes at a price of 100% of the principal amount of the notes, plus accrued interest from the original issue date of the notes, if any, and to dealers at that price less a concession not in excess of 2% of the principal amount of the notes, plus accrued interest from the original issue date of the notes, if any. After the public offering, the public offering price, concession and discount may be changed.

The following table shows the public offering price as a percentage of principal amount, underwriting discounts and commissions and proceeds before expenses to us. The information assumes either no exercise or full exercise by the underwriters of their option to purchase additional notes.

	<b>Per Note</b>	<b>Total</b>	
		<b>Without Option</b>	<b>With Option</b>
Public offering price	100%	\$ 55,000,000	\$ 63,250,000
Underwriting discounts and commissions	3.5%	\$ 1,925,000	\$ 2,213,750
Proceeds, before expenses, to us	96.5%	\$ 53,075,000	\$ 61,036,250

The expenses of this offering, not including the underwriting discounts and commissions, are estimated to be \$150,000 and are payable by us.

**Option to Purchase Additional Notes**

We have granted the underwriters an option, exercisable for 30 days after the date of this prospectus supplement, from time to time, in whole or in part, to purchase up to an additional \$8,250,000 aggregate principal amount of the notes at the initial offering price less the underwriting discount, to cover over-allotments.



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**No Sales of Similar Securities**

During a period of 60 days from the date of this prospectus, we will not, without the prior written consent of the representatives, (i) directly or indirectly, offer, pledge, sell, contract to sell, purchase any option or contract to sell, sell or grant any option, right or warrant to purchase or otherwise transfer or dispose of any debt securities issued or guaranteed by us that are substantially similar to the notes or any securities convertible into or exercisable or exchangeable for such debt securities, (ii) enter into any swap or any other agreement or any transaction that transfers, in whole or in part, directly or indirectly, the economic consequence of ownership of debt securities issued or guaranteed by us, whether any such swap or transaction described in clause (i) or (ii) above is to be settled by delivery of debt securities issued or guaranteed by us that are substantially similar to the notes or securities convertible into or exercisable or exchangeable for such debt, in cash or otherwise, (iii) file any registration statement under the Securities Act with respect to any of the foregoing, or (iv) publicly disclose the intention to do any of the foregoing. The foregoing restrictions shall not apply to the notes to be sold hereunder.

**Stabilization, Short Positions, Market Making and Trading**

In connection with the offering, the underwriters may engage in transactions that stabilize the market price of the notes. Such transactions include, without limitation, bids or purchases to peg, fix or maintain the price of the notes. If the underwriters create a short position in the notes in connection with the offering, or if the underwriters sell more notes than are listed on the cover page of this prospectus supplement, the underwriters may reduce that short position by purchasing notes in the open market. The underwriters may also elect to reduce any short position by exercising all or part of the option that we have granted to the underwriters. Purchases of a security to stabilize the price or reduce a short position may cause the price of the security to be higher than it might be in the absence of such purchases.

Neither the underwriters nor we make any representations or prediction as to the direction or magnitude of any effect that the transactions described above may have on the price of the notes. In addition, neither the underwriters nor we make any representation that the underwriters will engage in these transactions or that these transactions, once commenced, will not be discontinued without notice.

**New Listing of Notes; No Active Market**

The notes are a new issue of securities with no established trading market. We intend to apply to list the notes on the NYSE under the symbol "ABRN." If the application is approved, trading of the notes on the NYSE is expected to begin within 30 days after the date of initial issuance of the notes. No current market exists for the notes.

Prior to the offering, there has been no active market for the notes. The underwriters have advised us that they presently intend to make a market in the notes after completion of the offering. However, the underwriters are under no obligation to do so and may discontinue any market-making activities at any time without any notice. We cannot assure the liquidity of the trading market for the notes or that an active public market for the notes will develop. If an active trading market for the notes does not develop, the market price and liquidity of the notes may be adversely affected. If the notes are traded, they may trade at a discount from their initial offering price, depending on prevailing interest rates, the market for similar securities, our performance and certain other factors.

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**Indemnification**

We have agreed pursuant to the terms of the underwriting agreement to indemnify the underwriters against certain liabilities, including liabilities under the U.S. securities laws, or to contribute to any payments the underwriters may be required to make for such liabilities.

**Electronic Distribution**

A prospectus supplement and the accompanying prospectus supplement in electronic format may be made available on the Internet sites or through other online services maintained by the underwriters in this offering, or by their affiliates. In those cases, prospective investors may view offering terms online and prospective investors may be allowed to place orders online. The underwriters may agree with us to allocate a specific principal amount of notes for sale to online brokerage account holders. The representatives will make any such allocation on the same basis as other allocations.

Other than the prospectus supplement and the accompanying prospectus in electronic format, the information on any underwriter's website and any information contained in any other website maintained by such underwriter or any selling group member is not part of the prospectus supplement and the accompanying prospectus or the registration statement of which this prospectus supplement and the accompanying prospectus forms a part, has not been approved and/or endorsed by us or the underwriters in their capacity as underwriters and should not be relied upon by investors.

**Relationships**

The underwriters and certain of their affiliates are full service financial institutions engaged in various activities, which may include securities trading, commercial and investment banking, financial advisory, investment management, investment research, principal investment, hedging, financing and brokerage activities. The underwriters and their related entities have engaged, and may in the future engage, in commercial and investment banking transactions with us and our affiliates in the ordinary course of their business. They have received, and expect to receive, customary compensation and expense reimbursement for these commercial and investment banking transactions. In addition, we have entered into an equity distribution agreement with JMP Securities LLC, one of the underwriters in this offering, pursuant to which we may in the future offer and sell shares of our common stock from time to time. JMP Securities LLC is entitled to be paid commissions with respect to any such sales.

In the ordinary course of their various business activities, the underwriters and certain of their affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers, and such investment and securities activities may involve securities and/or instruments of the issuer or its affiliates. If the underwriters or their affiliates have a lending relationship with us, certain of those underwriters or their affiliates routinely hedge, and certain other of those underwriters or their affiliates may hedge, their credit exposure to us consistent with their customary risk management policies. Typically, the underwriters and their affiliates would hedge such exposure by entering into transactions which consist of either the purchase of credit default swaps or the creation of short positions in our securities or the securities of our affiliates, including potentially the notes offered hereby. Any such credit default swaps or short positions could adversely affect future trading prices of the notes offered hereby. The underwriters and certain of their affiliates may also communicate independent investment recommendations, market color or trading ideas and/or publish or express independent research views in respect of such securities or instruments and may at any time hold, or recommend to clients that they acquire, long and/or short positions in such securities and instruments.

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**LEGAL MATTERS**

Certain legal matters in connection with this offering will be passed upon for us by Skadden, Arps, Slate, Meagher & Flom LLP and Venable LLP, Baltimore, Maryland. Certain legal matters in connection with this offering will be passed upon for the underwriters by Hunton & Williams LLP.

**EXPERTS**

The consolidated financial statements of Arbor Realty Trust, Inc. and Subsidiaries appearing in Arbor Realty Trust, Inc.'s Annual Report (Form 10-K) for the year ended December 31, 2013 (including the schedule appearing therein), and the effectiveness of Arbor Realty Trust, Inc. and Subsidiaries' internal control over financial reporting as of December 31, 2013 have been audited by Ernst & Young LLP, independent registered public accounting firm, as set forth in their reports thereon, included therein, and incorporated herein by reference. Such consolidated financial statements have been incorporated herein by reference in reliance upon such reports given on the authority of such firm as experts in accounting and auditing.

**WHERE YOU CAN FIND MORE INFORMATION**

We file annual, quarterly, and current reports, proxy statements and other information with the Securities and Exchange Commission (the "SEC"). You may read and copy any reports or other information that we file with the SEC at the SEC's Public Reference Room located at 100 F Street, N.E., Washington D.C. 20549. You may also receive copies of these documents upon payment of a duplicating fee, by writing to the SEC's Public Reference Room. Please call the SEC at 1-800-SEC-0330 for further information on the Public Reference Room in Washington D.C. and other locations. Our SEC filings are also available to the public from commercial documents retrieval services, at our website at [www.arborrealtytrust.com](http://www.arborrealtytrust.com) and at the SEC's website at [www.sec.gov](http://www.sec.gov). The information on our website is not, and you should not consider the information to be, a part of this prospectus supplement or the accompanying prospectus. Our securities are listed on the New York Stock Exchange ("NYSE") and we intend to apply to list the notes on the NYSE under the symbol "ABRN," and all such material filed by us with the NYSE also can be inspected at the offices of the NYSE, 20 Broad Street, New York 10005.

We have filed with the SEC a registration statement on Form S-3, of which the accompanying prospectus is a part, under the Securities Act of 1933, as amended, with respect to the securities. This prospectus supplement and the accompanying prospectus do not contain all of the information set forth in the registration statement, certain parts of which are omitted in accordance with the rules and regulations of the SEC. For further information concerning us and our securities, reference is made to the registration statement. Statements contained in this prospectus supplement or the accompanying prospectus as to the contents of any contract or other documents are not necessarily complete, and in each instance, reference is made to the copy of the contract or documents filed as an exhibit to the registration statement, each such statement being qualified in all respects by such reference.

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**INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE**

The SEC allows us to "incorporate by reference" the information that we file with them into this prospectus supplement. This means that we can disclose important information to you by referring you to other documents filed separately with the SEC, including our annual, quarterly and current reports. The information incorporated by reference is considered to be a part of this prospectus supplement, except for any information that is modified or superseded by information contained in this prospectus supplement or any other subsequently filed document. The information incorporated by reference is an important part of this prospectus supplement and the accompanying prospectus.

The following documents have been filed by us with the SEC and are incorporated by reference into this prospectus supplement:

our Quarterly Report on Form 10-Q for the quarter ended March 31, 2014;

our Annual Report on Form 10-K for the year ended December 31, 2013;

the portions of our Definitive Proxy Statement on Schedule 14A, dated April 11, 2014, incorporated by reference into our Annual Report on Form 10-K for the year ended December 31, 2013; and

our Current Reports on Form 8-K dated February 25, 2014 and April 28, 2014.

All documents that we file (but not those we furnish) with the SEC pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, after the date of this prospectus supplement but before the end of any offering of securities made under this prospectus supplement will also be considered to be incorporated by reference and will automatically update and supersede the information in this prospectus supplement and any previously filed documents.

We will provide without charge to each person, including any beneficial owner, to whom this prospectus supplement is delivered, upon written or oral request, a copy of any or all of these documents incorporated herein by reference (other than exhibits to those documents, unless those exhibits are specifically incorporated by reference in such documents). Requests for documents should be directed to Arbor Realty Trust, Inc., 333 Earle Ovington Boulevard, Suite 900, Uniondale, New York, 11553, Attention: Secretary (telephone no.: (516) 506-4200).

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PROSPECTUS

# **ARBOR REALTY TRUST, INC.**

**COMMON STOCK**

**PREFERRED STOCK**

**DEPOSITARY SHARES**

**DEBT SECURITIES**

**AND**

**WARRANTS**

We may offer, issue and sell from time to time, together or separately, our debt securities, which may be senior debt securities or subordinated debt securities, shares of our preferred stock, which we may issue in one or more classes or series, depositary shares representing shares of our preferred stock, shares of our common stock, or warrants to purchase debt or equity securities, at an aggregate initial offering price which will not exceed \$500,000,000.

We will provide the specific terms of these securities in supplements to this prospectus. We may describe the terms of these securities in a term sheet which will precede the prospectus supplement. You should read this prospectus and the accompanying prospectus supplement carefully before you make your investment decision.

**An investment in these securities entails certain material risks and uncertainties that should be considered. See "Risk Factors" beginning on page 2 of this prospectus.**

Our common stock is listed on the New York Stock Exchange under the trading symbol "ABR." Each prospectus supplement will indicate if the securities offered thereby will be listed on any securities exchange.

**NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF THESE SECURITIES OR DETERMINED IF THIS PROSPECTUS OR THE ACCOMPANYING PROSPECTUS SUPPLEMENT IS TRUTHFUL OR COMPLETE. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.**

The date of this prospectus is August 5, 2013.

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You should rely only on the information contained in this prospectus and any applicable prospectus supplement. We have not authorized anyone to provide you with different or additional information. This prospectus and any applicable prospectus supplement does not constitute an offer to sell, or a solicitation of an offer to purchase, the securities offered by such documents in any jurisdiction to or from any person to whom or from whom it is unlawful to make such offer or solicitation of an offer in such jurisdiction. You should not assume that the information contained in this prospectus or any prospectus supplement is accurate as of any date other than the date on the front cover of such documents. Neither the delivery of this prospectus or any applicable prospectus supplement nor any distribution of securities pursuant to such documents shall, under any circumstances, create any implication that there has been no change in the information set forth in this prospectus or any applicable prospectus supplement or in our affairs since the date of this prospectus or any applicable prospectus supplement.

This prospectus contains, and any applicable prospectus supplement may contain, summaries of certain provisions contained in some of the documents described herein and therein, but reference is made to the actual documents for complete information. All of the summaries are qualified in their entirety by the actual documents. Copies of some of the documents referred to have been filed or incorporated by reference as exhibits to the registration statement of which this prospectus is a part and you may obtain copies of those documents as described below under "Where You Can Find More Information."



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**ABOUT THIS PROSPECTUS**

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission (the "SEC") using a "shelf" registration process. Under this shelf process, we may, from time to time, sell any combination of the securities described in this prospectus, in one or more offerings up to a total dollar amount of \$500,000,000. This prospectus provides you with a general description of the securities we may offer. Each time we offer to sell securities under this prospectus, we will provide a prospectus supplement containing specific information about the terms of that offering. The prospectus supplement may also add, update or change information contained in this prospectus. You should read both this prospectus and any prospectus supplement together with additional information described under the heading "Where You Can Find More Information."

You should rely on the information contained or incorporated by reference in this prospectus. We have not authorized anyone to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. We are not making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted.

You should assume that the information in this prospectus is accurate as of the date of the prospectus. Our business, financial condition, results of operations and prospects may have changed since that date.

This prospectus contains summary descriptions of the debt securities, common stock, preferred stock, depositary shares and warrants that we may sell from time to time. These summary descriptions are not meant to be complete descriptions of each security. The particular terms of any security will be described in the related prospectus supplement.

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**SUMMARY**

*The following summary highlights information contained elsewhere in this prospectus. You should read the entire prospectus, including "Risk Factors," before making a decision to invest in our securities. In this prospectus, unless the context indicates otherwise, (a) the words "we," "us," "our," "Arbor," and similar references refer to Arbor Realty Trust, Inc. and its subsidiaries, including Arbor Realty Limited Partnership, our operating partnership, and Arbor Realty SR, Inc., (b) "our board of directors" refers to the board of directors of Arbor Realty Trust, Inc. and (c) the words "Arbor Commercial Mortgage," "ACM" or "our manager" refer to Arbor Commercial Mortgage, LLC.*

**Arbor Realty Trust, Inc.**

We are a specialized real estate finance company that invests in a diversified portfolio of structured finance assets in the multi-family and commercial real estate market. We invest primarily in real estate-related bridge and mezzanine loans, including junior participating interests in first mortgages, and preferred equity and, in limited cases, discounted mortgage notes and other real estate-related assets, which we refer to collectively as structured finance investments. We also invest in mortgage-related securities and equity interests in real property. Our principal business objective is to maximize the difference between the yield on our investments and the cost of financing these investments to generate cash available for distribution, facilitate capital appreciation and maximize total return to our stockholders.

We are organized to qualify as a real estate investment trust ("REIT") for federal income tax purposes. A REIT is generally not subject to federal income tax on that portion of its REIT taxable income ("Taxable Income") that is distributed to its stockholders, provided that at least 90% of Taxable Income is distributed and certain other REIT qualification requirements are met. Certain of our assets that produce non-qualifying income are held in taxable REIT subsidiaries. Unlike other subsidiaries of a REIT, the income of a taxable REIT subsidiary is generally subject to federal income tax.

We conduct substantially all of our operations and investing activities through our operating partnership, Arbor Realty Limited Partnership, and its subsidiaries, including Arbor Realty SR, Inc., a subsidiary REIT ("SR Inc."), and its subsidiaries. We serve as the general partner of our operating partnership, and currently own 100% of its partnership interests.

We are externally managed and advised by Arbor Commercial Mortgage, LLC, a national commercial real estate finance company that specializes in debt and equity financing for multi-family and commercial real estate, pursuant to the terms of a management agreement.

We are a Maryland corporation formed in June 2003. Our principal executive offices are located at 333 Earle Ovington Boulevard, Suite 900, Uniondale, New York 11553. Our telephone number is (516) 506-4200. Our website is located at [www.arborrealtytrust.com](http://www.arborrealtytrust.com). The information contained on our website is not a part of this prospectus.

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**RISK FACTORS**

You should consider the specific risks described in our Annual Report on Form 10-K for the year ended December 31, 2012, the risk factors described under the caption "Risk Factors" in any applicable prospectus supplement and any risk factors set forth in our other filings with the SEC, pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), before making an investment decision. Each of the risks described in these documents could materially and adversely affect our business, financial condition, results of operations and prospects, and could result in a partial or complete loss of your investment. See "Where You Can Find More Information" in this prospectus. You should also carefully review the cautionary statement referred to under "Cautionary Statement Regarding Forward-Looking Statements."

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**CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS**

The information contained in this prospectus is not a complete description of our business or the risks associated with an investment in Arbor Realty Trust, Inc. We urge you to carefully review and consider the various disclosures made by us in this prospectus, including the documents incorporated by reference herein.

This prospectus contains certain "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Such forward-looking statements relate to, among other things, the operating performance of our investments and financing needs. Forward-looking statements are generally identifiable by use of forward-looking terminology such as "may," "will," "should," "potential," "intend," "expect," "endeavor," "seek," "anticipate," "estimate," "overestimate," "underestimate," "believe," "could," "project," "predict," "continue" or other similar words or expressions. Forward-looking statements are based on certain assumptions, discuss future expectations, describe future plans and strategies, contain projections of results of operations or of financial condition or state other forward-looking information. Our ability to predict results or the actual effect of future plans or strategies is inherently uncertain. Although we believe that the expectations reflected in such forward-looking statements are based on reasonable assumptions, our actual results and performance could differ materially from those set forth in the forward-looking statements. These forward-looking statements involve risks, uncertainties and other factors that may cause our actual results in future periods to differ materially from forecasted results. Factors that could have a material adverse effect on our operations and future prospects include, but are not limited to, changes in economic conditions generally and the real estate market specifically; adverse changes in the financing markets we access affecting our ability to finance our loan and investment portfolio; changes in interest rates; the quality and size of the investment pipeline and the rate at which we can invest our cash; impairments in the value of the collateral underlying our loans and investments; changes in the markets; legislative/regulatory changes; completion of pending investments; the availability and cost of capital for future investments; competition within the finance and real estate industries; and other risks detailed from time to time in our SEC reports. Readers are cautioned not to place undue reliance on any of these forward-looking statements, which reflect our management's views as of the date of this prospectus. The factors noted above could cause our actual results to differ significantly from those contained in any forward-looking statement. For a discussion of our critical accounting policies, see "Management's Discussion and Analysis of Financial Condition and Results of Operations of Arbor Realty Trust, Inc. and Subsidiaries Significant Accounting Estimates and Critical Accounting Policies" under Item 7 of our Annual Report on Form 10-K for the year ended December 31, 2012.

Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements. We are under no duty to update any of the forward-looking statements after the date of this prospectus to conform these statements to actual results.

Table of Contents**USE OF PROCEEDS**

Unless otherwise set forth in a prospectus supplement, we intend to use the net proceeds of any offering of securities to invest in real estate loans and securities, to purchase or pay liabilities and for general corporate purposes. We will have significant discretion in the use of any net proceeds. The net proceeds may be invested temporarily in interest-bearing accounts and short-term interest-bearing securities that are consistent with our qualification as a REIT until they are used for their stated purpose. We may provide additional information on the use of the net proceeds from the sale of the offered securities in an applicable prospectus supplement relating to the offered securities.

**RATIO OF EARNINGS TO COMBINED FIXED CHARGES AND PREFERRED DIVIDENDS**

The following table sets forth our ratio of earnings to combined fixed charges and preferred stock dividends for each of the periods indicated:

	Three Months Ended		Year Ended December 31,			
	March 31, 2013	2012	2011(1)	2010	2009(2)	2008(3)
Ratio of Earnings to Combined Fixed Charges and Preferred Stock Dividends	1.6x	1.4x	x	2.9x	x	x

The ratio of earnings to combined fixed charges and preferred dividends was computed by dividing earnings by our combined fixed charges and preferred dividends. For purposes of calculating the above ratios, (i) earnings represent "Net income (loss) from continuing operations" from our consolidated statements of operations, as adjusted for fixed charges and loss (income) and distributions from equity affiliates, and (ii) fixed charges represent "Interest expense" from our consolidated statements of operations as adjusted for capitalized interest. The ratios are based solely on historical financial information.

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- (1) Due to a loss in 2011, earnings were insufficient to cover fixed charges by \$36.3 million.
- (2) Due to a loss in 2009, earnings were insufficient to cover fixed charges by \$193.2 million.
- (3) Due to a loss in 2008, earnings were insufficient to cover fixed charges by \$72.9 million.

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**DESCRIPTION OF DEBT SECURITIES**

As used in this prospectus, debt securities means the debentures, notes, bonds and other evidences of indebtedness that we may issue from time to time. The debt securities will either be senior debt securities or subordinated debt securities. Senior debt securities will be issued under an indenture between us and a "Senior Indenture Trustee," referred to as the "Senior Indenture," and subordinated debt securities will be issued under an indenture between us and a "Subordinated Indenture Trustee," referred to as the "Subordinated Indenture." This prospectus sometimes refers to the Senior Indenture and the Subordinated Indenture, collectively, as the "Indentures." The Senior Indenture Trustee and the Subordinated Indenture Trustee are both referred to, individually, as the Trustee.

The forms of Indentures are filed as exhibits to the registration statement of which this prospectus forms a part. The statements and descriptions in this prospectus or in any prospectus supplement regarding provisions of the Indentures and debt securities are summaries thereof, do not purport to be complete and are subject to, and are qualified in their entirety by reference to, all of the provisions of the Indentures (and any amendments or supplements we may enter into from time to time which are permitted under each Indenture) and the debt securities, including the definitions therein of certain terms.

**General**

Unless otherwise specified in a prospectus supplement, the debt securities will be our direct unsecured obligations. The senior debt securities will rank equally with any of our other senior and unsubordinated debt. The subordinated debt securities will be subordinate and junior in right of payment to any senior indebtedness.

The Indentures do not limit the aggregate principal amount of debt securities that we may issue and provide that we may issue debt securities from time to time in one or more series, in each case with the same or various maturities, at par or at a discount. Unless indicated in a prospectus supplement, we may issue additional debt securities of a particular series without the consent of the holders of the debt securities of such series outstanding at the time of the issuance. Any such additional debt securities, together with all other outstanding debt securities of that series, will constitute a single series of debt securities under the applicable Indenture.

Each prospectus supplement will describe the terms relating to the specific series of debt securities being offered. These terms will include some or all of the following:

the title of debt securities and whether they are subordinated debt securities or senior debt securities;

any limit on the aggregate principal amount of the debt securities;

the ability to issue additional debt securities of the same series;

the price or prices at which we will sell the debt securities;

the maturity date or dates of the debt securities;

the rate or rates of interest, if any, which may be fixed or variable, at which the debt securities will bear interest, or the method of determining such rate or rates, if any;

the date or dates from which any interest will accrue or the method by which such date or dates will be determined;

the right, if any, to extend the interest payment periods and the duration of any such deferral period, including the maximum consecutive period during which interest payment periods may be extended;



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whether the amount of payments of principal of (and premium, if any) or interest on the debt securities may be determined with reference to any index, formula or other method, such as one or more currencies, commodities, equity indices or other indices, and the manner of determining the amount of such payments;

the dates on which we will pay interest on the debt securities and the regular record date for determining who is entitled to the interest payable on any interest payment date;

the place or places where the principal of (and premium, if any) and interest on the debt securities will be payable, where any securities may be surrendered for registration of transfer, exchange or conversion, as applicable, and notices and demands may be delivered to or upon us pursuant to the Indenture;

if we possess the option to do so, the periods within which and the prices at which we may redeem the debt securities, in whole or in part, pursuant to optional redemption provisions, and the other terms and conditions of any such provisions;

our obligation, if any, to redeem, repay or purchase debt securities by making periodic payments to a sinking fund or through an analogous provision or at the option of holders of the debt securities, and the period or periods within which and the price or prices at which we will redeem, repay or purchase the debt securities, in whole or in part, pursuant to such obligation, and the other terms and conditions of such obligation;

the denominations in which the debt securities will be issued, if other than denominations of \$1,000 and integral multiples of \$1,000;

the portion, or methods of determining the portion, of the principal amount of the debt securities which we must pay upon the acceleration of the maturity of the debt securities in connection with an Event of Default (as described below), if other than the full principal amount;

the currency, currencies or currency unit in which we will pay the principal of (and premium, if any) or interest, if any, on the debt securities, if not United States dollars;

provisions, if any, granting special rights to holders of the debt securities upon the occurrence of specified events;

any deletions from, modifications of or additions to the Events of Default or our covenants with respect to the applicable series of debt securities, and whether or not such Events of Default or covenants are consistent with those contained in the applicable Indenture;

any limitation on our ability to incur debt, redeem stock, sell our assets or other restrictions;

the application, if any, of the terms of the Indenture relating to defeasance and covenant defeasance (which terms are described below) to the debt securities;

whether the subordination provisions summarized below or different subordination provisions will apply to the debt securities;



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the terms, if any, upon which the holders may convert or exchange the debt securities into or for our common stock, preferred stock or other securities or property;

whether any of the debt securities will be issued in global form and, if so, the terms and conditions upon which global debt securities may be exchanged for certificated debt securities;

any change in the right of the Trustee or the requisite holders of debt securities to declare the principal amount thereof due and payable because of an Event of Default;

the depositary for global or certificated debt securities;

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any special tax implications of the debt securities;

any trustees, authenticating or paying agents, transfer agents or registrars or other agents with respect to the debt securities;

any other terms of the debt securities not inconsistent with the provisions of the Indentures, as amended or supplemented;

to whom any interest on any debt security shall be payable, if other than the person in whose name the security is registered, on the record date for such interest, the extent to which, or the manner in which, any interest payable on a temporary global debt security will be paid if other than in the manner provided in the applicable Indenture;

if the principal of or any premium or interest on any debt securities of the series is to be payable in one or more currencies or currency units other than as stated, the currency, currencies or currency units in which it shall be paid and the periods within and terms and conditions upon which such election is to be made and the amounts payable (or the manner in which such amount shall be determined);

the portion of the principal amount of any securities of the series which shall be payable upon declaration of acceleration of the maturity of the debt securities pursuant to the applicable Indenture if other than the entire principal amount; and

if the principal amount payable at the stated maturity of any debt security of the series will not be determinable as of any one or more dates prior to the stated maturity, the amount which shall be deemed to be the principal amount of such securities as of any such date for any purpose, including the principal amount thereof which shall be due and payable upon any maturity other than the stated maturity or which shall be deemed to be outstanding as of any date prior to the stated maturity (or, in any such case, the manner in which such amount deemed to be the principal amount shall be determined).

Unless otherwise specified in the applicable prospectus supplement, the debt securities will not be listed on any securities exchange.

Unless otherwise specified in the applicable prospectus supplement, debt securities will be issued in fully-registered form without coupons.

Debt securities may be sold at a substantial discount below their stated principal amount, bearing no interest or interest at a rate which at the time of issuance is below market rates. The applicable prospectus supplement will describe the federal income tax consequences and special considerations applicable to any such debt securities. The debt securities may also be issued as indexed securities or securities denominated in foreign currencies, currency units or composite currencies, as described in more detail in the prospectus supplement relating to any of the particular debt securities. The prospectus supplement relating to specific debt securities will also describe any special considerations and certain additional tax considerations applicable to such debt securities.

**Subordination**

The prospectus supplement relating to any offering of subordinated debt securities will describe the specific subordination provisions. However, unless otherwise noted in the prospectus supplement, subordinated debt securities will be subordinate and junior in right of payment to any existing Senior Indebtedness.

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Under the Subordinated Indenture, "Senior Indebtedness" means all amounts due on obligations in connection with any of the following, whether outstanding at the date of execution of the Subordinated Indenture or thereafter incurred or created:

the principal of (and premium, if any) and interest due on our indebtedness for borrowed money and indebtedness evidenced by securities, debentures, bonds or other similar instruments issued by us;

all of our capital lease obligations;

any of our obligations as lessee under leases required to be capitalized on the balance sheet of the lessee under generally accepted accounting principles;

all of our obligations for the reimbursement on any letter of credit, banker's acceptance, security purchase facility or similar credit transaction;

all of our obligations in respect of interest rate swap, cap or other agreements, interest rate future or options contracts, currency swap agreements, currency future or option contracts and other similar agreements;

all obligations of the types referred to above of other persons for the payment of which we are responsible or liable as obligor, guarantor or otherwise; and

all obligations of the types referred to above of other persons secured by any lien on any property or asset of ours (whether or not such obligation is assumed by us).

However, Senior Indebtedness does not include:

any indebtedness which expressly provides that such indebtedness shall not be senior in right of payment to the subordinated debt securities, or that such indebtedness shall be subordinated to any other of our indebtedness, unless such indebtedness expressly provides that such indebtedness shall be senior in right of payment to the subordinated debt securities;

any of our indebtedness in respect of the subordinated debt securities;

any indebtedness or liability for compensation to employees, for goods or materials purchased in the ordinary course of business or for services;

any of our indebtedness to any subsidiary; and

any liability for federal, state, local or other taxes owed or owing by us.

Senior Indebtedness shall continue to be Senior Indebtedness and be entitled to the benefits of the subordination provisions irrespective of any amendment, modification or waiver of any term of such Senior Indebtedness.

Unless otherwise noted in the accompanying prospectus supplement, if we default in the payment of any principal of (or premium, if any) or interest on any Senior Indebtedness when it becomes due and payable, whether at maturity or at a date fixed for prepayment or by declaration or otherwise, then, unless and until such default is cured or waived or ceases to exist, we will make no direct or indirect payment (in cash, property, securities, by set-off or otherwise) in respect of the principal of or interest on the subordinated debt securities or in respect of any

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redemption, retirement, purchase or other requisition of any of the subordinated debt securities.

In the event of the acceleration of the maturity of any subordinated debt securities, the holders of all senior debt securities outstanding at the time of such acceleration, subject to any security interest, will first be entitled to receive payment in full of all amounts due on the senior debt securities before the holders of the subordinated debt securities will be entitled to receive any payment of principal (and premium, if any) or interest on the subordinated debt securities.

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If any of the following events occurs, we will pay in full all Senior Indebtedness before we make any payment or distribution under the subordinated debt securities, whether in cash, securities or other property, to any holder of subordinated debt securities:

any dissolution or winding-up or liquidation or reorganization of Arbor Realty Trust, Inc., whether voluntary or involuntary or in bankruptcy, insolvency or receivership;

any general assignment by us for the benefit of creditors; or

any other marshaling of our assets or liabilities.

In such event, any payment or distribution under the subordinated debt securities, whether in cash, securities or other property, which would otherwise (but for the subordination provisions) be payable or deliverable in respect of the subordinated debt securities, will be paid or delivered directly to the holders of Senior Indebtedness in accordance with the priorities then existing among such holders until all Senior Indebtedness has been paid in full. If any payment or distribution under the subordinated debt securities is received by the Trustee of any subordinated debt securities in contravention of any of the terms of the Subordinated Indenture and before all the Senior Indebtedness has been paid in full, such payment or distribution or security will be received in trust for the benefit of, and paid over or delivered and transferred to, the holders of the Senior Indebtedness at the time outstanding in accordance with the priorities then existing among such holders for application to the payment of all Senior Indebtedness remaining unpaid to the extent necessary to pay all such Senior Indebtedness in full.

The Subordinated Indenture does not limit the issuance of additional Senior Indebtedness.

### **Consolidation, Merger, Sale of Assets and Other Transactions**

We may not (i) merge with or into or consolidate with another corporation or sell, assign, transfer, lease or convey all or substantially all of our properties and assets to, any other corporation other than a direct or indirect wholly-owned subsidiary of ours, and (ii) no corporation may merge with or into or consolidate with us or, except for any direct or indirect wholly-owned subsidiary of ours, sell, assign, transfer, lease or convey all or substantially all of its properties and assets to us, unless:

we are the surviving corporation or the corporation formed by or surviving such merger or consolidation or to which such sale, assignment, transfer, lease or conveyance has been made, if other than us, has expressly assumed by supplemental indenture all of our obligations under the Indentures;

immediately after giving effect to such transaction, no default or Event of Default has occurred and is continuing; and

we deliver to the Trustee an officers' certificate and an opinion of counsel, each stating that the supplemental indenture complies with the applicable Indenture.

### **Events of Default, Notice and Waiver**

Unless an accompanying prospectus supplement states otherwise, the following shall constitute "Events of Default" under the Indentures with respect to each series of debt securities:

our failure to pay any interest on any debt security of such series when due and payable, continued for 30 days;

our failure to pay principal (or premium, if any) on any debt security of such series when due, regardless of whether such payment became due because of maturity, redemption, acceleration or otherwise, or is required by any sinking fund established with respect to such series;



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our failure to observe or perform any other of our covenants or agreements with respect to such debt securities for 60 days after we receive notice of such failure;

certain events of bankruptcy, insolvency or reorganization of Arbor Realty Trust, Inc.; and

any other Event of Default provided with respect to Securities of that series.

If an Event of Default with respect to any debt securities of any series outstanding under either of the Indentures shall occur and be continuing, the Trustee under such Indenture or the holders of at least 25% in aggregate principal amount of the debt securities of that series outstanding may declare, by notice as provided in the applicable Indenture, the principal amount (or such lesser amount as may be provided for in the debt securities of that series) of all the debt securities of that series outstanding to be due and payable immediately; provided that, in the case of an Event of Default involving certain events in bankruptcy, insolvency or reorganization, acceleration is automatic; and, provided further, that after such acceleration, but before a judgment or decree based on acceleration, the holders of a majority in aggregate principal amount of the outstanding debt securities of that series may, under certain circumstances, rescind and annul such acceleration if all Events of Default, other than the nonpayment of accelerated principal, have been cured or waived. Upon the acceleration of the maturity of original issue discount securities, an amount less than the principal amount thereof will become due and payable. Reference is made to the prospectus supplement relating to any original issue discount securities for the particular provisions relating to acceleration of maturity thereof.

Any past default under either Indenture with respect to debt securities of any series, and any Event of Default arising therefrom, may be waived by the holders of a majority in principal amount of all debt securities of such series outstanding under such Indenture, except in the case of (i) default in the payment of the principal of (or premium, if any) or interest on any debt securities of such series or (ii) default in respect of a covenant or provision which may not be amended or modified without the consent of the holder of each outstanding debt security of such series affected.

The Trustee is required within 90 days after the occurrence of a default (which is known to the Trustee and is continuing), with respect to the debt securities of any series (without regard to any grace period or notice requirements), to give to the holders of the debt securities of such series notice of such default.

The Trustee, subject to its duties during default to act with the required standard of care, may require indemnification by the holders of the debt securities of any series with respect to which a default has occurred before proceeding to exercise any right or power under the Indentures at the request of the holders of the debt securities of such series. Subject to such right of indemnification and to certain other limitations, the holders of a majority in principal amount of the outstanding debt securities of any series under either Indenture may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee with respect to the debt securities of such series, provided that such direction shall not be in conflict with any rule of law or with the applicable Indenture and the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.

No holder of a debt security of any series may institute any action against us under either of the Indentures (except actions for payment of overdue principal of (and premium, if any) or interest on such debt security or for the conversion or exchange of such debt security in accordance with its terms) unless (i) the holder has given to the Trustee written notice of an Event of Default and of the continuance thereof with respect to the debt securities of such series specifying an Event of Default, as required under the applicable Indenture, (ii) the holders of at least 25% in aggregate principal amount of the debt securities of that series then outstanding under such Indenture shall have requested the Trustee to institute such action and offered to the Trustee indemnity reasonably satisfactory to it against the costs, expenses and liabilities to be incurred in compliance with such request; (iii) the Trustee shall

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not have instituted such action within 60 days of such request and (iv) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the holders of a majority in principal amount of the debt securities of that series.

We are required to furnish annually to the Trustee statements as to our compliance with all conditions and covenants under each Indenture.

**Discharge, Defeasance and Covenant Defeasance**

We may discharge or defease our obligations under the Indenture as set forth below, unless otherwise indicated in the applicable prospectus supplement.

We may discharge certain obligations to holders of any series of debt securities issued under either the Senior Indenture or the Subordinated Indenture which have not already been delivered to the Trustee for cancellation and which have either become due and payable or are by their terms due and payable within one year (or scheduled for redemption within one year) by irrevocably depositing with the Trustee money in an amount sufficient to pay and discharge the entire indebtedness on such debt securities not previously delivered to the Trustee for cancellation, for principal and any premium and interest to the date of such deposit (in the case of debt securities which have become due and payable) or to the stated maturity or redemption date, as the case may be and we have paid all other sums payable under the applicable indenture.

If indicated in the applicable prospectus supplement, we may elect either (i) to defease and be discharged from any and all obligations with respect to the debt securities of or within any series (except as otherwise provided in the relevant Indenture) ("defeasance") or (ii) to be released from our obligations with respect to certain covenants applicable to the debt securities of or within any series ("covenant defeasance"), upon the deposit with the relevant Indenture Trustee, in trust for such purpose, of money and/or government obligations which through the payment of principal and interest in accordance with their terms will provide money in an amount sufficient to pay the principal of (and premium, if any) or interest on such debt securities to maturity or redemption, as the case may be, and any mandatory sinking fund or analogous payments thereon. As a condition to defeasance or covenant defeasance, we must deliver to the Trustee an opinion of counsel to the effect that the holders of such debt securities will not recognize income, gain or loss for federal income tax purposes as a result of such defeasance or covenant defeasance and will be subject to federal income tax on the same amounts and in the same manner and at the same times as would have been the case if such defeasance or covenant defeasance had not occurred. Such opinion of counsel, in the case of defeasance under clause (i) above, must refer to and be based upon a ruling of the Internal Revenue Service or a change in applicable federal income tax law occurring after the date of the relevant Indenture. In addition, in the case of either defeasance or covenant defeasance, we shall have delivered to the Trustee (i) an officers' certificate to the effect that the relevant debt securities exchange(s) have informed us that neither such debt securities nor any other debt securities of the same series, if then listed on any securities exchange, will be delisted as a result of such deposit and (ii) an officers' certificate and an opinion of counsel, each stating that all conditions precedent with respect to such defeasance or covenant defeasance have been complied with.

We may exercise our defeasance option with respect to such debt securities notwithstanding our prior exercise of our covenant defeasance option.

**Modification and Waiver**

Under the Indentures, we and the applicable Trustee may supplement the Indentures for certain purposes which would not materially adversely affect the interests or rights of the holders of debt securities of a series without the consent of those holders. We and the applicable Trustee may also modify the Indentures or any supplemental indenture in a manner that affects the interests or rights of



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the holders of debt securities with the consent of the holders of at least a majority in aggregate principal amount of the outstanding debt securities of each affected series issued under the Indenture. However, the Indentures require the consent of each holder of debt securities that would be affected by any modification which would:

change the fixed maturity of any debt securities of any series, or reduce the principal amount thereof, or reduce the rate or extend the time of payment of interest thereon, or reduce any premium payable upon the redemption thereof;

reduce the amount of principal of an original issue discount debt security or any other debt security payable upon acceleration of the maturity thereof;

change the currency in which any debt security or any premium or interest is payable;

impair the right to enforce any payment on or with respect to any debt security;

reduce the percentage in principal amount of outstanding debt securities of any series, the consent of whose holders is required for modification or amendment of the Indentures or for waiver of compliance with certain provisions of the Indentures or for waiver of certain defaults; or

modify any of the above provisions.

The Indentures permit the holders of at least a majority in aggregate principal amount of the outstanding debt securities of any series issued under the Indenture which is affected by the modification or amendment to waive our compliance with certain covenants contained in the Indentures.

**Payment and Paying Agents**

Unless otherwise indicated in the applicable prospectus supplement, payment of interest on a debt security on any interest payment date will be made to the person in whose name a debt security is registered at the close of business on the record date for the interest.

Unless otherwise indicated in the applicable prospectus supplement, principal, interest and premium on the debt securities of a particular series will be payable at the office of such paying agent or paying agents as we may designate for such purpose from time to time. Notwithstanding the foregoing, at our option, payment of any interest may be made by check mailed to the address of the person entitled thereto as such address appears in the security register.

Unless otherwise indicated in the applicable prospectus supplement, a paying agent designated by us will act as paying agent for payments with respect to debt securities of each series. All paying agents initially designated by us for the debt securities of a particular series will be named in the applicable prospectus supplement. We may at any time designate additional paying agents or rescind the designation of any paying agent or approve a change in the office through which any paying agent acts, except that we will be required to maintain a paying agent in each place of payment for the debt securities of a particular series.

All moneys paid by us to a paying agent for the payment of the principal, interest or premium on any debt security which remain unclaimed at the end of two years after such principal, interest or premium has become due and payable will be repaid to us upon request, and the holder of such debt security thereafter may look only to us for payment thereof.

**Denominations, Registrations and Transfer**

Unless an accompanying prospectus supplement states otherwise, debt securities will be represented by one or more global certificates registered in the name of a nominee for The Depository



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Trust Company, or DTC. In such case, each holder's beneficial interest in the global securities will be shown on the records of DTC and transfers of beneficial interests will only be effected through DTC's records.

A holder of debt securities may only exchange a beneficial interest in a global security for certificated securities registered in the holder's name if:

DTC notifies us that it is unwilling or unable to continue serving as the depository for the relevant global securities or DTC ceases to maintain certain qualifications under the Exchange Act and no successor depository has been appointed for 90 days; or

we determine, in our sole discretion, that the global security shall be exchangeable.

If debt securities are issued in certificated form, they will only be issued in the minimum denomination specified in the accompanying prospectus supplement and integral multiples of such denomination. Transfers and exchanges of such debt securities will only be permitted in such minimum denomination. Transfers of debt securities in certificated form may be registered at the Trustee's corporate office or at the offices of any paying agent or trustee appointed by us under the Indentures. Exchanges of debt securities for an equal aggregate principal amount of debt securities in different denominations may also be made at such locations.

**Governing Law**

The Indentures and debt securities will be governed by, and construed in accordance with, the internal laws of the State of New York, without regard to its principles of conflicts of laws.

**Trustee**

The Trustee shall be named in the applicable prospectus supplement.

**Conversion or Exchange Rights**

The prospectus supplement will describe the terms, if any, on which a series of debt securities may be convertible into or exchangeable for our common stock, preferred stock or other debt securities. These terms will include provisions as to whether conversion or exchange is mandatory, at the option of the holder or at our option. These provisions may allow or require the number of shares of our common stock or other securities to be received by the holders of such series of debt securities to be adjusted.

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**DESCRIPTION OF CAPITAL STOCK**

The following description of the terms of our stock is only a summary. For a complete description, we refer you to the Maryland General Corporation Law (the "MGCL"), our charter and our bylaws. Copies of our charter and bylaws are available upon request. The following description discusses the general terms of the common stock and preferred stock that we may issue.

The prospectus supplement relating to a particular class or series of preferred stock will describe certain other terms of such class or series of preferred stock. If so indicated in the prospectus supplement relating to a particular class or series of preferred stock, the terms of any such class or series of preferred stock may differ from the terms set forth below. The description of preferred stock set forth below and the description of the terms of a particular class or series of preferred stock set forth in the applicable prospectus supplement are not complete and are qualified in their entirety by reference to our charter, particularly to the articles supplementary relating to that class or series of preferred stock.

**General**

Our charter provides that we may issue up to 500,000,000 shares of common stock, \$0.01 par value per share, and up to 100,000,000 shares of preferred stock, \$0.01 par value per share. As of June 15, 2013, 43,136,975 shares of common stock were issued and outstanding. As of June 15, 2013, 1,551,500 shares of 8.250% Series A cumulative redeemable preferred stock (the "Series A Preferred Stock") and 1,260,000 shares of 7.75% Series B cumulative redeemable preferred stock (the "Series B Preferred Stock") were issued and outstanding. As of June 15, 2013, there were 6,912 holders of record of our common stock. Under Maryland law, our stockholders generally are not liable for our debts or obligations.

**Common Stock**

Subject to the preferential rights of any other class or series of stock, including our Series A Preferred Stock and Series B Preferred Stock, and to the provisions of the charter regarding the restrictions on transfer and ownership of stock, holders of shares of our common stock are entitled to receive dividends on such stock when, as and if authorized by our board of directors out of funds legally available therefor and declared by us and to share ratably in the assets of our company legally available for distribution to our stockholders in the event of our liquidation, dissolution or winding up after payment of or adequate provision for all known debts and liabilities of our company, including the preferential rights on dissolution of any class or series of preferred stock.

Subject to the provisions of our charter regarding the restrictions on transfer and ownership of stock, each outstanding share of common stock entitles the holder to one vote on all matters submitted to the vote of stockholders, including the election of directors. There is no cumulative voting in the election of our board of directors, which means that the holders of outstanding shares of our common stock entitled to cast a majority of the votes in the election of directors can elect all of the directors then standing for election and the holders of the remaining shares of our common stock are not able to elect any directors.

Holders of shares of our common stock have no preference, conversion, exchange, sinking fund, redemption or appraisal rights and have no preemptive rights to subscribe for any securities of our company. Subject to the provisions of the charter regarding the restrictions on transfer and ownership of stock, shares of our common stock have equal dividend, liquidation and other rights.

Under the MGCL, a Maryland corporation generally cannot dissolve, amend its charter, merge or consolidate with another entity, sell all or substantially all of its assets or engage in a statutory share exchange unless declared advisable by the board of directors and approved by the affirmative vote of stockholders entitled to cast at least two-thirds of the votes entitled to be cast on the matter unless a

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lesser percentage (but not less than a majority of all of the votes entitled to be cast on the matter) is set forth in the corporation's charter. Subject to the voting rights of any other class or series of our stock, including our Series A Preferred Stock and Series B Preferred Stock, our charter provides for approval of these matters, except with respect to certain charter amendments relating to the classification and removal of our directors and the vote required to amend such provisions (which must be approved by the affirmative vote of two-thirds of all the votes entitled to be cast on the amendment), by an affirmative vote of stockholders entitled to cast a majority of the votes entitled to be cast on the matter.

Our charter authorizes our board of directors to amend our charter to increase the number of authorized shares of common stock, to authorize us to issue additional authorized but unissued shares of our common stock, to reclassify any unissued shares of our common stock into other classes or series of stock and to establish the number of shares in each class or series and to set or change, subject to the restrictions on transfer and ownership of stock contained in our charter and the terms of any outstanding class or series of stock, including our Series A Preferred Stock and Series B Preferred Stock, the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications or terms or conditions of redemption for each such class or series without stockholder approval.

**Preferred Stock**

Our board of directors may authorize the issuance of preferred stock in one or more classes or series and may determine, with respect to any such series, the powers, preferences and rights of such class or series, and its qualifications, limitations and restrictions, including, without limitation:

the number of shares to constitute such series and the designations thereof;

the voting power, if any, of holders of shares of such series and, if voting power is limited, the circumstances under which such holders may be entitled to vote;

the rate of dividends, if any, and the extent of further participation in dividend distributions, if any, and whether dividends shall be cumulative or non-cumulative;

whether or not such series will be redeemable, and, if so, the terms and conditions upon which shares of such series will be redeemable;

the extent, if any, to which such series will have the benefit of any sinking fund provision for the redemption or purchase of shares;

the rights, if any, of such series, in the event of the dissolution of the corporation, or upon any distribution of the assets of the corporation; and

whether or not the shares of such series will be convertible, and, if so, the terms and conditions upon which shares of such series will be convertible.

You should refer to the articles supplementary and prospectus supplement relating to the class or series of preferred stock being offered for the specific terms of that class or series, including:

the title or designation of the class or series and the number of shares in the class or series;

the price at which the preferred stock will be offered;

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the dividend rate or rates or method of calculating the rates, the dates on which the dividends will be payable, whether or not dividends will be cumulative or noncumulative and, if cumulative, the dates from which dividends on the preferred stock being offered will cumulate;

the voting rights, if any, of the holders of shares of the preferred stock being offered;

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the provisions for a sinking fund, if any, and the provisions for redemption, if applicable, of the preferred stock being offered;

the liquidation preference per share;

the terms and conditions, if applicable, upon which the preferred stock being offered will be convertible into our common stock, including the conversion price, or the manner of calculating the conversion price, and the conversion period;

the terms and conditions, if applicable, upon which the preferred stock being offered will be exchangeable for debt securities, including the exchange price, or the manner of calculating the exchange price, and the exchange period;

any listing of the preferred stock being offered on any securities exchange;

whether interests in the shares of the series will be represented by depositary shares;

a discussion of any material U.S. federal income tax considerations applicable to the preferred stock being offered;

the relative ranking and preferences of the preferred stock being offered as to dividend rights and rights upon liquidation, dissolution or the winding up of our affairs;

any limitations on the issuance of any class or series of preferred stock ranking senior or equal to the series of preferred stock being offered as to dividend rights and rights upon liquidation, dissolution or the winding up of our affairs; and

any additional rights, preferences, qualifications, limitations and restrictions of the series.

Upon issuance, the shares of preferred stock will be fully paid and nonassessable, which means that its holders will have paid their purchase price in full and we may not require them to pay additional funds. Holders of preferred stock will not have any preemptive rights.

***Preferred Stock Dividend Rights***

Holders of preferred stock will be entitled to receive, when, as and if authorized by the board of directors out of funds legally available therefor and declared by us, dividends in additional shares of preferred stock or cash dividends at the rates and on the dates set forth in the related articles supplementary and prospectus supplement. Dividend rates may be fixed or variable or both. Different classes or series of preferred stock may be entitled to dividends at different dividend rates or based upon different methods of determination. Each dividend will be payable to the holders of record as they appear on our stock books on record dates determined by the board of directors. Dividends on preferred stock may be cumulative or noncumulative, as specified in the related articles supplementary and prospectus supplement. If the board of directors fails to authorize or we fail to declare a dividend on any preferred stock for which dividends are noncumulative, then the right to receive that dividend will be lost, and we will have no obligation to pay the dividend for that dividend period, whether or not dividends are declared for any future dividend period.

No full dividends will be declared or paid on any preferred stock unless full dividends for the dividend period commencing after the immediately preceding dividend payment date and any cumulative dividends still owing have been or contemporaneously are declared and paid on all other series of preferred stock which have the same rank as, or rank senior to, that series of preferred stock. When those dividends are not paid in full, dividends will be declared pro rata, so that the amount of dividends declared per share on that class or series of preferred stock and on each other class or series of preferred stock having the same rank as that class or series of preferred stock will bear the same ratio to each other that accrued dividends per share on that class or series of preferred stock and the other classes or series of preferred stock bear to each other. In addition, generally, unless full dividends





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including any cumulative dividends still owing on all outstanding shares of any class or series of preferred stock have been paid, no dividends will be declared or paid on the common stock and generally we may not redeem or purchase any common stock. No interest will be paid in connection with any dividend payment or payments which may be in arrears.

Unless otherwise set forth in the related articles supplementary and prospectus supplement, the dividends payable for each dividend period will be computed by annualizing the applicable dividend rate and dividing by the number of dividend periods in a year, except that the amount of dividends payable for the initial dividend period or any period shorter than a full dividend period will be computed on the basis of a 360-day year consisting of twelve 30-day months and, for any period less than a full month, the actual number of days elapsed in the period.

***Preferred Stock Rights Upon Liquidation***

If we liquidate, dissolve or wind up our affairs, either voluntarily or involuntarily, the holders of each class and series of preferred stock will be entitled to receive liquidating distributions in the amount set forth in the articles supplementary and prospectus supplement relating to the class or series of preferred stock. If the amounts payable with respect to preferred stock of any class or series and any stock having the same rank as that class or series of preferred stock are not paid in full, the holders of the preferred stock will share ratably in any such distribution of assets in proportion to the full respective preferential amounts to which they are entitled. After the holders of each class or series of preferred stock having the same rank are paid in full, they will have no right or claim to any of our remaining assets. Neither the sale of all or substantially all of our property or business nor a merger or consolidation by us with any other corporation will be considered a dissolution, liquidation or winding up by us of our business or affairs.

***Preferred Stock Redemption***

Any class or series of preferred stock may be redeemable in whole or in part at our option. In addition, any class or series of preferred stock may be subject to mandatory redemption pursuant to a sinking fund. The redemption provisions that may apply to a class or series of preferred stock, including the redemption dates and the redemption prices for that class or series, will be set forth in the related articles supplementary and prospectus supplement.

If a class or series of preferred stock is subject to mandatory redemption, the related articles supplementary and prospectus supplement will specify the year we can begin to redeem shares of the preferred stock, the number of shares of the preferred stock we can redeem each year and the redemption price per share. We may pay the redemption price in cash, stock or other securities of our company or of third parties, as specified in the related articles supplementary and prospectus supplement. If the redemption price is to be paid only from the proceeds of the sale of our capital stock, the terms of the class or series of preferred stock may also provide that if no capital stock is sold or if the amount of cash received is insufficient to pay in full the redemption price then due, the class or series of preferred stock will automatically be converted into shares of the applicable capital stock pursuant to conversion provisions specified in the related prospectus supplement.

If fewer than all the outstanding shares of any class or series of preferred stock are to be redeemed, whether by mandatory or optional redemption, the board of directors will determine the method for selecting the shares to be redeemed, which may be by lot or pro rata by any other method determined to be equitable. From and after the redemption date, dividends will cease to accrue on the shares of preferred stock called for redemption and all rights of the holders of those shares other than the right to receive the redemption price will cease.

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***Preferred Stock Conversion Rights***

The related articles supplementary and prospectus supplement will state any conversion rights under which shares of preferred stock are convertible into shares of common stock or another class or series of preferred stock or other property. As described under "Redemption" above, under some circumstances preferred stock may be mandatorily converted into common stock or another class or series of preferred stock.

***Preferred Stock Voting Rights***

The related articles supplementary and prospectus supplement will state any voting rights of that class or series of preferred stock. Unless otherwise indicated in the related articles supplementary and prospectus supplement, if we issue full shares of any class or series of preferred stock, each share will be entitled to one vote on matters on which holders of that class or series of preferred stock are entitled to vote. Because each full share of any class or series of preferred stock will be entitled to one vote, unless otherwise provided in the related articles supplementary, the voting power of that class or series will depend on the number of shares in that class or series, and not on the aggregate liquidation preference or initial offering price of the shares of that class or series of preferred stock.

***Permanent Global Preferred Securities***

A class or series of preferred stock may be issued in whole or in part in the form of one or more global securities that will be deposited with a depository or its nominee identified in the related prospectus supplement. For most classes and series of preferred stock, the depository will be DTC. A global security may not be transferred except as a whole to the depository, a nominee of the depository or their successors unless it is exchanged in whole or in part for preferred stock in individually certificated form. Any additional terms of the depository arrangement with respect to any class or series of preferred stock and the rights of and limitations on owners of beneficial interests in a global security representing class or a series of preferred stock may be described in the related prospectus supplement.

**Power To Reclassify Unissued Shares Of Common And Preferred Stock**

Our charter authorizes our board of directors to classify and reclassify any unissued shares of our common stock or preferred stock into other classes or series of stock, including one or more classes or series of stock that have priority over our common stock with respect to voting rights, dividends or upon liquidation. Prior to issuance of shares of each class or series, our board of directors is required by the MGCL and by our charter to set, subject to our charter restrictions on transfer and ownership of stock and to the terms of any outstanding class or series of stock, including our Series A Preferred Stock and Series B Preferred Stock, the terms, preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications and terms or conditions of redemption for each class or series. Subject to the rights of holders of any other class or series of our stock, including our Series A Preferred Stock and Series B Preferred Stock, our board of directors may take these actions without stockholder approval unless stockholder approval is required by applicable law or the rules of any stock exchange or automatic quotation system on which our securities are listed or traded. Therefore, our board of directors could authorize the issuance of shares of common or preferred stock with terms and conditions that could have the effect of delaying, deferring or preventing a transaction or a change in control that might involve a premium price for holders of our common stock or otherwise be in their best interest.

**Power to Increase or Decrease Authorized Shares of Stock and Issue Additional Shares of Common Stock and Preferred Stock**

We believe that the power of our board of directors to amend our charter to increase or decrease the number of authorized shares of stock, to authorize us to issue additional shares of common stock

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or preferred stock and to classify or reclassify unissued shares of common stock or preferred stock and thereafter to authorize us to issue the classified or reclassified shares provides us with increased flexibility in structuring possible future financings and acquisitions and in meeting other needs that might arise. These actions can be taken without common stockholder approval, unless such approval is required by applicable law or the rules of any stock exchange or automated quotation system on which our securities may be listed or traded. Although we have no present intention of doing so, we could issue a class or series of stock that could delay, defer or prevent a transaction or a change in control of us that might involve a premium price for holders of common stock or otherwise be in their best interest.

**Dividend Reinvestment Plan**

We may implement a dividend reinvestment plan whereby stockholders may automatically reinvest their dividends in our common stock. Details about any such plan would be sent to our stockholders following adoption thereof by our board of directors.

**Transfer Agent and Registrar**

The transfer agent and registrar for our common stock, Series A Preferred Stock and Series B Preferred Stock is American Stock Transfer and Trust Company.

**Restrictions on Transfer and Ownership**

In order for us to qualify as a REIT under the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"), our stock must be beneficially owned by 100 or more persons during at least 335 days of a taxable year of 12 months (other than the first year for which an election to be a REIT has been made) or during a proportionate part of a shorter taxable year. Also, not more than 50% of the value of the outstanding shares of stock may be owned, directly or indirectly, by five or fewer individuals (as defined in the Internal Revenue Code to include certain entities) during the last half of a taxable year (other than the first year for which an election to be a REIT has been made).

Our charter contains restrictions on the ownership and transfer of our stock that are intended to assist us in complying with these requirements and continuing to qualify as a REIT. The relevant sections of our charter provide that subject to the exceptions described below, no person or entity may beneficially own, or be deemed to own by virtue of the applicable constructive ownership provisions of the Internal Revenue Code, more than 5.0% (by value or by number of shares, whichever is more restrictive) of the outstanding shares of our common stock or 5.0% by value of our aggregate outstanding shares of stock of all classes or series. We refer to this restriction as the "general ownership limit."

The constructive ownership rules under the Internal Revenue Code are complex and may cause stock owned actually or constructively by a group of related individuals and/or entities to be owned constructively by one individual or entity. As a result, the acquisition of less than 5.0% of our outstanding shares of common stock or stock of all classes or series (or the acquisition of an interest in an entity that owns, actually or constructively, less than 5.0% of our outstanding shares of common stock or stock of all classes or series) by an individual or entity, could, nevertheless cause that individual or entity, or another individual or entity, to own constructively in excess of these limits on our outstanding stock and thereby subject the stock to the applicable ownership limit.

Shares of our stock that would otherwise be directly or indirectly acquired or held by a person in violation of the restrictions on ownership and transfer are, in general, automatically transferred to a trust for the benefit of a charitable beneficiary, as described below, and the purported owner will acquire no rights in such shares. Our board of directors may, in its sole discretion, waive the ownership limit with respect to a particular stockholder if it determines that any exemption from the ownership

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limit will not jeopardize our status as a REIT under the Internal Revenue Code. The stockholder must also agree that any violation of certain required representations and undertakings provided with respect to the exemption or other action contrary to the ownership and transfer restrictions will result in the automatic transfer of the shares causing the violation to a trust.

We have granted ACM and Mr. Ivan Kaufman (who is the beneficial owner of approximately 91% of ACM's outstanding membership interests) an exemption from the general ownership limit which permits them to collectively own up to 24% of our outstanding shares of common stock. We have also granted C. Michael Kojanian, one of our directors, an exemption from the general ownership limit which permits him to own up to 8.3% of our outstanding shares of common stock.

As a condition of our waiver, our board of directors may require an opinion of counsel or a ruling from the Internal Revenue Service ("IRS") that is satisfactory to our board of directors, and/or representations or undertakings from the applicant with respect to preserving our REIT status, and our board of directors may impose such other conditions or restrictions as it deems appropriate. Additionally, the waiver of the ownership limit may not allow five or fewer stockholders to beneficially own more than 50% in value of our outstanding capital stock.

Our charter provisions further prohibit:

any person from beneficially or constructively owning shares of our stock that would result in us being closely held under Section 856(h) of the Internal Revenue Code or otherwise cause us to fail to qualify as a REIT; and

any person from transferring shares of our stock after January 29, 2004 if such transfer would result in shares of our stock being beneficially owned by fewer than 100 persons (determined under the principles of Section 856(a)(5) of the Internal Revenue Code).

Any person who acquires or attempts or intends to acquire beneficial or constructive ownership of shares of our common stock that will or may violate any of the foregoing restrictions on transfer and ownership will be required to give notice immediately to us or, in the case of a proposed or attempted transaction, must give at least 15 days' prior written notice to us, and provide us with such other information as we may request in order to determine the effect of such transfer on our status as a REIT. The foregoing restrictions on transfer and ownership will not apply if our board of directors determines that it is no longer in our best interests to attempt to qualify, or to continue to qualify, as a REIT.

Pursuant to our charter, if any purported transfer of our stock or any other event would otherwise result in any person violating the ownership limits or other restrictions on transfer and ownership directors, then that number of shares in excess of the applicable ownership limit (rounded up to the nearest whole share) will be automatically transferred to, and held by, a trust for the exclusive benefit of one or more charitable organizations selected by us. The automatic transfer will be effective as of the close of business on the business day prior to the date of the violative transfer or other event that results in a transfer to the trust. Any dividend or other distribution paid to the purported transferee, prior to our discovery that the shares had been automatically transferred to a trust as described above, must be repaid to the trustee upon demand for distribution to the beneficiary of the trust. If the transfer to the trust as described above is not automatically effective, for any reason, to prevent violation of the applicable ownership limit or as otherwise permitted by our board of directors, then our charter provides that the transfer of the excess shares will be void.

Shares of our stock transferred to the trustee are deemed offered for sale to us, or our designee, at a price per share equal to the lesser of (1) the price paid by the purported transferee for the shares (or, in the case of a devise or gift, the market price at the time of such devise or gift) and (2) the market price on the date we, or our designee, accepts such offer. We have the right to accept such offer until the trustee has sold the shares of our common stock held in the trust as discussed below.

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Upon a sale to us, the interest of the charitable beneficiary in the shares sold terminates and the trustee must distribute the net proceeds of the sale to the purported record transferee and any dividends or other distributions held by the trustee with respect to such common stock will be paid to the charitable beneficiary.

If we do not buy the shares, the trustee must, within 20 days of receiving notice from us of the transfer of shares to the trust, sell the shares to a person or entity designated by the trustee who could own the shares without violating the restrictions on transfer and ownership. After that, the trustee must distribute to the purported record transferee an amount equal to the lesser of (1) the price paid by the purported transferee or owner for the shares (or, if the purported transferee did not give value for the shares in connection with the event causing the shares to be held in trust (e.g., in the case of a gift, devise or other such transaction), the market price of the shares on the day of the event causing the shares to be held in the trust), and (2) the sales proceeds (net of commissions and other expenses of sale) received by the trust for the shares. The purported transferee has no rights in the shares held by the trustee.

The trustee will be designated by us and shall be unaffiliated with us and with any purported transferee. Prior to the sale of any excess shares by the trust, the trustee will receive, in trust for the beneficiary, all dividends and other distributions paid by us with respect to the excess shares, and may also exercise all voting rights with respect to the excess shares.

Subject to Maryland law, effective as of the date that the shares have been transferred to the trust, the trustee will have the authority, at the trustee's sole discretion, to:

rescind as void any vote cast by a purported transferee prior to our discovery that the shares have been transferred to the trust; and

recast the vote in accordance with the desires of the trustee acting for the benefit of the beneficiary of the trust.

However, if we have already taken irreversible corporate action, then the trustee may not rescind and recast the vote.

Every owner of more than five percent (or such lower percentage as may be required by the Internal Revenue Code or regulations promulgated thereunder) of the shares of our stock, within 30 days after the end of each taxable year, is required to give us written notice, stating the owner's name and address, the number of shares of stock beneficially owned and a description of the manner in which such shares are held. In addition, any person or entity that is a beneficial owner or constructive owner of shares of our stock and any person or entity (including the stockholder of record) who is holding shares of our stock for a beneficial owner or constructive owner will, on request, be required to disclose to us in writing such information as we may request in order to determine the effect, if any, of such stockholder's ownership of shares of our stock on our status as a REIT and to ensure compliance with the ownership limits or to comply with the requirements of any taxing or governmental authority or to determine such compliance.

All certificates representing shares of our stock bear a legend referring to the restrictions described above.

These restrictions on ownership and transfer could delay, defer or prevent a transaction or a change of control of our company that might involve a premium price for our common stock or otherwise be in the best interest of our stockholders.