
By: Senator Madden

Introduced and read first time: January 31, 1997

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Condominiums - Parking for the Handicapped - Council of Unit Owners**

3 FOR the purpose of providing that the declaration of a condominium does not have to be
4 amended in order for the council of unit owners to designate parking for the
5 handicapped; authorizing the council of unit owners of a condominium to designate
6 parking for the handicapped; and generally relating to the designation of parking
7 for the handicapped by the council of unit owners of a condominium.

8 BY repealing and reenacting, with amendments,
9 Article - Real Property
10 Section 11-103(c) and 11-109(d)
11 Annotated Code of Maryland
12 (1996 Replacement Volume and 1996 Supplement)

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

15 **Article - Real Property**

16 11-103.

17 (c) (1) (I) THIS SUBSECTION DOES NOT APPLY TO:

18 1. [Except for a] A corrective amendment under § 11-103.1 of
19 this subtitle; [or]

20 2. [as provided in paragraph] PARAGRAPH (2) of this
21 subsection[.]; OR

22 3. THE DESIGNATION OF PARKING FOR THE HANDICAPPED
23 BY THE COUNCIL OF UNIT OWNERS UNDER § 11-109(D)(22) OF THIS SUBTITLE.

24 (II) [the] THE declaration may be amended only with the written
25 consent of 80 percent of the unit owners listed on the current roster. Amendments under
26 this section are subject to the following limitations:

27 [(i)] 1. Except to the extent expressly permitted or expressly
28 required by other provisions of this title, an amendment to the declaration may not
29 change the boundaries of any unit, the undivided percentage interest in the common

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1 elements of any unit, the liability for common expenses or rights to common profits of any
2 unit, or the number of votes in the council of unit owners of any unit without the written
3 consent of every unit owner and mortgagee.

4 [(ii)] 2. An amendment to the declaration may not modify in any way
5 rights expressly reserved for the benefit of the developer or provisions required by any
6 governmental authority or for the benefit of any public utility.

7 [(iii)] 3. Except to the extent expressly permitted by the declaration,
8 an amendment to the declaration may not change residential units to nonresidential units
9 or change nonresidential units to residential units without the written consent of every
10 unit owner and mortgagee.

11 [(iv)] 4. Except as otherwise expressly permitted by this title and by
12 the declaration, an amendment to the declaration may not redesignate general common
13 elements as limited common elements without the written consent of every unit owner
14 and mortgagee.

15 [(v)] 5. No provision of this title shall be construed in derogation of
16 any requirement in the declaration or bylaws that all or a specified number of the
17 mortgagees of the condominium units approve specified actions contemplated by the
18 council of unit owners.

19 (2) (i) The council of unit owners may petition the circuit court in equity
20 for the county in which the condominium is located to correct:

21 1. An improper description of the units or common elements;
22 or

23 2. An improper assignment of the percentage interests in the
24 common elements, common expenses, and common profits.

25 (ii) The petition may be brought only if:

26 1. The unit owners, at a special meeting called for that purpose,
27 vote to petition the court to correct a specific error by a vote of at least $66 \frac{2}{3}$ percent of
28 the unit owners present and voting at a properly convened meeting;

29 2. The council of unit owners gives notice of the special meeting
30 to each mortgagee of record for the condominium; and

31 3. An opportunity is provided for the mortgagees to speak at
32 the special meeting upon written request to the council of unit owners.

33 (iii) The court may reform the declaration to correct the error or
34 omission as the court considers appropriate, if:

35 1. The council of unit owners gives notice of the filing of the
36 petition to each mortgagee and unit owner within 15 days of filing;

37 2. The council of unit owners files an affidavit with the court
38 stating that the conditions of subparagraph (ii) of this paragraph have been met;

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1 3. The council of unit owners proves, by a preponderance of the
2 evidence, that there is an error or omission as provided in subparagraph (i) of this
3 paragraph;

4 4. Any mortgagee with an interest in the condominium is
5 permitted to intervene in the proceedings upon filing a motion to intervene as provided in
6 the Maryland Rules;

7 5. The reformation does not substantially impair the property
8 rights of any unit owner or mortgagee; and

9 6. The court issues an order of reformation.

10 (iv) A final order of reformation may be appealed by any party within
11 30 days of its issuance. An order of reformation may not be recorded until the appeal
12 period has lapsed or all appeals have been completed.

13 (3) An amendment or order of reformation becomes effective on
14 recordation in the same manner as the declaration. If the condominium is registered with
15 the Secretary of State, the council of unit owners shall file a copy of the order of
16 reformation with the Secretary of State within 15 days of recordation.

17 11-109.

18 (d) The council of unit owners may be either incorporated as a nonstock
19 corporation or unincorporated and it is subject to those provisions of Title 5, Subtitle 2 of
20 the Corporations and Associations Article of the Code which are not inconsistent with
21 this title. The council of unit owners has, subject to any provision of this title, the
22 declaration, and bylaws, the following powers:

23 (1) To have perpetual existence, subject to the right of the unit owners to
24 terminate the condominium regime as provided in § 11-123 of this title;

25 (2) To adopt and amend reasonable rules and regulations;

26 (3) To adopt and amend budgets for revenues, expenditures, and reserves
27 and collect assessments for common expenses from unit owners;

28 (4) To sue and be sued, complain and defend, or intervene in litigation or
29 administrative proceedings in its own name on behalf of itself or two or more unit owners
30 on matters affecting the condominium;

31 (5) To transact its business, carry on its operations and exercise the powers
32 provided in this subsection in any state, territory, district, or possession of the United
33 States and in any foreign country;

34 (6) To make contracts and guarantees, incur liabilities and borrow money,
35 sell, mortgage, lease, pledge, exchange, convey, transfer, and otherwise dispose of any
36 part of its property and assets;

37 (7) To issue bonds, notes, and other obligations and secure the same by
38 mortgage or deed of trust of any part of its property, franchises, and income;

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1 (8) To acquire by purchase or in any other manner, to take, receive, own,
2 hold, use, employ, improve, and otherwise deal with any property, real or personal, or any
3 interest therein, wherever located;

4 (9) To hire and terminate managing agents and other employees, agents,
5 and independent contractors;

6 (10) To purchase, take, receive, subscribe for or otherwise acquire, own,
7 hold, vote, use, employ, sell, mortgage, loan, pledge or otherwise dispose of, and
8 otherwise use and deal in and with, shares or other interests in, or obligation of
9 corporations of the State, or foreign corporations, and of associations, partnerships, and
10 individuals;

11 (11) To invest its funds and to lend money in any manner appropriate to
12 enable it to carry on the operations or to fulfill the purposes named in the declaration or
13 bylaws, and to take and to hold real and personal property as security for the payment of
14 funds so invested or loaned;

15 (12) To regulate the use, maintenance, repair, replacement, and modification
16 of common elements;

17 (13) To cause additional improvements to be made as a part of the general
18 common elements;

19 (14) To grant easements, rights-of-way, licenses, leases in excess of 1 year, or
20 similar interests through or over the common elements in accordance with § 11-125(f) of
21 this title;

22 (15) To impose and receive any payments, fees, or charges for the use, rental,
23 or operation of the common elements other than limited common elements;

24 (16) To impose charges for late payment of assessments and, after notice and
25 an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws,
26 and rules and regulations of the council of unit owners, under § 11-113 of this title;

27 (17) To impose reasonable charges for the preparation and recordation of
28 amendments to the declaration, bylaws, rules, regulations, or resolutions, resale
29 certificates, or statements of unpaid assessments;

30 (18) To provide for the indemnification of and maintain liability insurance
31 for officers, directors, and any managing agent or other employee charged with the
32 operation or maintenance of the condominium;

33 (19) To enforce the implied warranties made to the council of unit owners by
34 the developer under § 11-131 of this title;

35 (20) To enforce the provisions of this title, the declaration, bylaws, and rules
36 and regulations of the council of unit owners against any unit owner or occupant; [and]

37 (21) Generally, to exercise the powers set forth in this title and the
38 declaration or bylaws and to do every other act not inconsistent with law, which may be
39 appropriate to promote and attain the purposes set forth in this title, the declaration or
40 bylaws; AND

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1 (22) TO DESIGNATE PARKING FOR THE HANDICAPPED.

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
3 October 1, 1997.