

# SENATE BILL 288

N1

71r1415

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By: **Senators Kelley and Currie**

Introduced and read first time: January 31, 2007

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Common Ownership Community Ombudsman**

3 FOR the purpose of establishing the office of Common Ownership Community  
4 Ombudsman in the Department of Labor, Licensing, and Regulation; providing  
5 for the appointment, service, qualifications, and salary of the Ombudsman;  
6 authorizing the Ombudsman to employ a staff; requiring the Ombudsman to  
7 perform certain duties; authorizing the Ombudsman to adopt and enforce  
8 certain regulations; requiring a common ownership community to register by a  
9 certain date with the Ombudsman; requiring the registration form to include  
10 certain information; providing that a common ownership community is exempt  
11 from registration if it is required to register under a certain local common  
12 ownership community registration system; requiring the Ombudsman to charge  
13 a fee for registration; providing that the fee may not exceed a certain amount;  
14 establishing a Common Ownership Community Ombudsman Fund; providing  
15 for the purpose of the Fund; providing that the Fund is a special, nonlapsing  
16 fund that is not subject to a certain provision; requiring the Treasurer to hold  
17 the fund separately and the Comptroller to account for the Fund; providing for  
18 the contents of the Fund; providing for the use of the Fund; requiring the  
19 Treasurer to invest the Fund in a certain manner; providing that expenditures  
20 from the Fund may be made in a certain manner; requiring the Office of  
21 Legislative Audits to audit the accounts and transactions of the Fund; defining  
22 certain terms; and generally relating to establishing the office of Common  
23 Ownership Communities Ombudsman.

24 BY adding to

25 Article – Real Property

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 11C-101 through 11C-402 to be under the new title "Title 11C.  
2 Common Ownership Community Ombudsman"  
3 Annotated Code of Maryland  
4 (2003 Replacement Volume and 2006 Supplement)

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

7 **Article - Real Property**

8 **TITLE 11C. COMMON OWNERSHIP COMMUNITY OMBUDSMAN.**

9 **SUBTITLE 1. DEFINITIONS.**

10 **11C-101.**

11 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
12 INDICATED.

13 (B) "COMMON OWNERSHIP COMMUNITY" MEANS:

14 (1) A CONDOMINIUM, AS DEFINED UNDER § 11-101 OF THIS  
15 ARTICLE;

16 (2) A COOPERATIVE HOUSING CORPORATION, AS DEFINED UNDER  
17 § 5-6B-01 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE; OR

18 (3) A HOMEOWNERS ASSOCIATION, AS DEFINED UNDER §  
19 11B-101 OF THIS ARTICLE.

20 (C) "FUND" MEANS THE COMMON OWNERSHIP COMMUNITY  
21 OMBUDSMAN FUND ESTABLISHED UNDER § 11C-401 OF THIS TITLE.

22 (D) "LOT" HAS THE MEANING STATED IN § 11B-101 OF THIS ARTICLE.

23 (E) "MEMBER" HAS THE MEANING STATED IN § 5-6B-01 OF THE  
24 CORPORATIONS AND ASSOCIATIONS ARTICLE.

25 (F) "OMBUDSMAN" MEANS THE COMMON OWNERSHIP COMMUNITY  
26 OMBUDSMAN ESTABLISHED UNDER § 11C-201 OF THIS TITLE.

1 (G) "SECRETARY" MEANS THE SECRETARY OF LABOR, LICENSING, AND  
2 REGULATION.

3 (H) "UNIT" HAS THE MEANING STATED IN § 11-101 OF THIS ARTICLE.

4 **SUBTITLE 2. COMMON OWNERSHIP COMMUNITY OMBUDSMAN.**

5 **11C-201.**

6 **THERE IS A COMMON OWNERSHIP COMMUNITY OMBUDSMAN IN THE**  
7 **DEPARTMENT OF LABOR, LICENSING, AND REGULATION.**

8 **11C-202.**

9 (A) **THE OMBUDSMAN SHALL BE APPOINTED BY THE SECRETARY WITH**  
10 **THE APPROVAL OF THE GOVERNOR AND THE ADVICE AND CONSENT OF THE**  
11 **SENATE.**

12 (B) **THE OMBUDSMAN SERVES AT THE PLEASURE OF THE SECRETARY.**

13 (C) **THE OMBUDSMAN SHALL BE QUALIFIED THROUGH TRAINING AND**  
14 **EXPERIENCE TO PERFORM THE DUTIES AND FUNCTIONS OF THE OFFICE OF**  
15 **OMBUDSMAN.**

16 (D) **THE OMBUDSMAN IS ENTITLED TO THE COMPENSATION PROVIDED**  
17 **IN THE STATE BUDGET.**

18 **11C-203.**

19 **THE OMBUDSMAN MAY EMPLOY A STAFF IN ACCORDANCE WITH THE**  
20 **STATE BUDGET.**

21 **11C-204.**

22 (A) **IN ADDITION TO ANY DUTIES SET FORTH ELSEWHERE, THE**  
23 **OMBUDSMAN SHALL:**

1           **(1) DEVELOP AN EDUCATION PROGRAM FOR RESIDENTS IN A**  
2 **COMMON OWNERSHIP COMMUNITY THAT INCLUDES AT LEAST:**

3                   **(I) GOVERNANCE OF A COMMON OWNERSHIP COMMUNITY;**

4                   **(II) RIGHTS AND DUTIES OF RESIDENTS IN A COMMON**  
5 **OWNERSHIP COMMUNITY; AND**

6                   **(III) ALTERNATIVE DISPUTE RESOLUTION, INCLUDING:**

7                           **1. MEDIATION;**

8                           **2. ARBITRATION; AND**

9                           **3. OTHER NONJUDICIAL DISPUTE RESOLUTION**  
10 **PROCESSES;**

11           **(2) DEVELOP AN EDUCATION PROGRAM FOR COMMON**  
12 **OWNERSHIP COMMUNITY GOVERNING BODIES THAT INCLUDES AT LEAST:**

13                   **(I) ADOPTION AND ENFORCEMENT OF RULES;**

14                   **(II) TRANSITION FROM DEVELOPER CONTROL;**

15                   **(III) CONDUCT OF ELECTIONS; AND**

16                   **(IV) SELECTION OF COMMUNITY MANAGEMENT AND OTHER**  
17 **PROFESSIONAL SERVICES;**

18           **(3) ANSWER AND PROCESS COMPLAINTS FROM ANY RESIDENT OF**  
19 **A COMMON OWNERSHIP COMMUNITY;**

20           **(4) MAINTAIN A LIST OF TRAINED MEDIATORS AND ARBITRATORS**  
21 **IN EACH JURISDICTION FOR REFERRALS;**

22           **(5) MAINTAIN A COLLECTION OF COMMON OWNERSHIP**  
23 **COMMUNITY ASSOCIATION DOCUMENTS FOR USE AS A MODEL AND FOR**  
24 **REFERENCE; AND**

1           **(6) ON OR BEFORE DECEMBER 31 OF EACH YEAR, SUBMIT TO**  
2 **THE SECRETARY AND, AS PROVIDED UNDER § 2-1246 OF THE STATE**  
3 **GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY AN ANNUAL REPORT THAT**  
4 **INCLUDES AT LEAST THE FOLLOWING INFORMATION CONCERNING THE MOST**  
5 **RECENTLY COMPLETED FISCAL YEAR ENDING JUNE 30:**

6           **(I) OPERATIONS OF THE OFFICE OF THE OMBUDSMAN,**  
7 **INCLUDING THE NUMBER OF COMPLAINTS RECEIVED AND THE NUMBERS OF**  
8 **REFERRALS TO ALTERNATIVE DISPUTE RESOLUTION; AND**

9           **(II) AMENDMENTS PROPOSED BY THE OMBUDSMAN**  
10 **REGARDING THIS TITLE.**

11 **11C-205.**

12           **THE OMBUDSMAN MAY ADOPT AND ENFORCE REGULATIONS REASONABLY**  
13 **NECESSARY TO CARRY OUT THIS TITLE.**

14                           **SUBTITLE 3. REGISTRATION.**

15 **11C-301.**

16           **(A) (1) A COMMON OWNERSHIP COMMUNITY SHALL REGISTER ON OR**  
17 **BEFORE DECEMBER 31 OF EACH YEAR WITH THE OMBUDSMAN ON A FORM**  
18 **PROVIDED BY THE OMBUDSMAN.**

19           **(2) REGISTRATION UNDER THIS SUBSECTION EXPIRES ON**  
20 **DECEMBER 31 OF THE FOLLOWING YEAR.**

21           **(B) THE REGISTRATION FORM SHALL INCLUDE AT LEAST:**

22           **(1) THE MEMBERSHIP OF THE GOVERNING BODY OF THE**  
23 **COMMON OWNERSHIP COMMUNITY FOR THE UPCOMING YEAR, INCLUDING**  
24 **CONTACT INFORMATION;**

25           **(2) THE MANAGING AGENT OF THE COMMON OWNERSHIP**  
26 **COMMUNITY FOR THE UPCOMING YEAR, INCLUDING CONTACT INFORMATION;**  
27 **AND**

1           (3) (I) THE NUMBER OF UNITS, IF THE COMMON OWNERSHIP  
2 COMMUNITY IS A CONDOMINIUM;

3                   (II) THE NUMBER OF MEMBERS, IF THE COMMON  
4 OWNERSHIP COMMUNITY IS A COOPERATIVE HOUSING CORPORATION; OR

5                   (III) THE NUMBER OF LOTS, IF THE COMMON OWNERSHIP  
6 COMMUNITY IS A HOMEOWNERS ASSOCIATION.

7           (C) A COMMON OWNERSHIP COMMUNITY IS EXEMPT FROM  
8 REGISTRATION UNDER SUBSECTION (A) OF THIS SECTION IF:

9                   (1) THE COMMON OWNERSHIP COMMUNITY IS REQUIRED TO  
10 REGISTER UNDER A COMMON OWNERSHIP COMMUNITY REGISTRATION SYSTEM  
11 OPERATED BY A COUNTY OR A MUNICIPAL CORPORATION; AND

12                   (2) THE REGISTRATION SYSTEM OFFERS SERVICES THAT ARE  
13 SUBSTANTIALLY SIMILAR TO THOSE OFFERED BY THE OMBUDSMAN.

14 **11C-302.**

15           (A) THE OMBUDSMAN SHALL CHARGE A FEE FOR EACH REGISTRATION.

16           (B) THE FEE CHARGED UNDER SUBSECTION (A) OF THIS SECTION MAY  
17 NOT EXCEED \$1 FOR EACH:

18                   (1) UNIT IN A CONDOMINIUM;

19                   (2) MEMBER IN A COOPERATIVE HOUSING CORPORATION; OR

20                   (3) LOT IN A HOMEOWNERS ASSOCIATION.

21 **SUBTITLE 4. COMMON OWNERSHIP COMMUNITY OMBUDSMAN FUND.**

22 **11C-401.**

23           (A) THERE IS A COMMON OWNERSHIP COMMUNITY OMBUDSMAN  
24 FUND.

1           **(B) THE PURPOSE OF THE FUND IS TO PAY ALL COSTS AND EXPENSES**  
2 **INCURRED BY THE OMBUDSMAN IN CARRYING OUT THIS SUBTITLE, INCLUDING:**

3           **(1) EXPENDITURES AUTHORIZED UNDER THIS SUBTITLE; AND**

4           **(2) ANY OTHER EXPENSE AUTHORIZED IN THE STATE BUDGET.**

5 **11C-402.**

6           **(A) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**  
7 **SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

8           **(2) THE STATE TREASURER SHALL HOLD THE FUND**  
9 **SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

10          **(B) THE FUND CONSISTS OF:**

11           **(1) REVENUE DISTRIBUTED TO THE FUND UNDER § 11C-302 OF**  
12 **THIS TITLE;**

13           **(2) ANY INVESTMENT EARNINGS OF THE FUND;**

14           **(3) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;**  
15 **AND**

16           **(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED BY**  
17 **AND FOR THE BENEFIT OF THE FUND.**

18          **(C) THE FUND MAY BE USED ONLY TO SUPPORT THE OPERATIONS OF**  
19 **THE OMBUDSMAN.**

20          **(D) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE**  
21 **SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

22          **(E) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN**  
23 **ACCORDANCE WITH THE STATE BUDGET.**

1           **(F) THE OFFICE OF LEGISLATIVE AUDITS SHALL AUDIT THE ACCOUNTS**  
2 **AND TRANSACTIONS OF THE FUND UNDER § 2-1220 OF THE STATE**  
3 **GOVERNMENT ARTICLE.**

4           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 2007.