

HOUSE BILL 687

N1, C1

9lr1570
CF SB 541

By: **Delegate Braveboy**

Introduced and read first time: February 9, 2009

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 10, 2009

CHAPTER _____

1 AN ACT concerning

2 **Common Ownership Communities – Fidelity Insurance**

3 FOR the purpose of requiring certain governing bodies of a cooperative housing
4 corporation, a condominium, or a homeowners association to purchase fidelity
5 insurance not later than a certain time and to keep the insurance in place each
6 year; requiring the fidelity insurance to provide for the indemnification of
7 ~~certain governing bodies of~~ a cooperative housing corporation, a condominium,
8 or a homeowners association against loss resulting from certain acts or
9 omissions of certain persons under certain circumstances; requiring a copy of
10 the fidelity insurance policy of a cooperative housing corporation, a
11 condominium, or a homeowners association to be kept and made available for
12 inspection under certain circumstances; requiring the fidelity insurance of a
13 cooperative housing corporation, a condominium, or a homeowners association
14 to be in a certain amount; allowing an aggrieved member of a cooperative
15 housing corporation, an aggrieved unit owner of a condominium, or an
16 aggrieved lot owner of a homeowners association to submit a dispute regarding
17 fidelity insurance to the Division of Consumer Protection of the Office of the
18 Attorney General under certain circumstances; and generally relating to fidelity
19 insurance and common ownership communities.

20 BY adding to

21 Article – Corporations and Associations

22 Section 5–6B–18.6

23 Annotated Code of Maryland

24 (2007 Replacement Volume and 2008 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY adding to
2 Article – Real Property
3 Section 11–114.1 and 11B–111.6
4 Annotated Code of Maryland
5 (2003 Replacement Volume and 2008 Supplement)

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

8 **Article – Corporations and Associations**

9 **5–6B–18.6.**

10 (A) (1) **THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A**
11 **COOPERATIVE HOUSING CORPORATION SHALL PURCHASE FIDELITY INSURANCE**
12 **NOT LATER THAN THE TIME OF THE FIRST ~~CONVEYANCE OF~~ SALE OF A**
13 **COOPERATIVE INTEREST WITH RESPECT TO A UNIT TO A PERSON OTHER THAN**
14 **THE DEVELOPER AND SHALL KEEP FIDELITY INSURANCE IN PLACE FOR EACH**
15 **YEAR THEREAFTER.**

16 (2) **THE FIDELITY INSURANCE REQUIRED UNDER PARAGRAPH (1)**
17 **OF THIS SUBSECTION SHALL PROVIDE FOR THE INDEMNIFICATION OF THE**
18 **~~BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A~~ COOPERATIVE**
19 **HOUSING CORPORATION AGAINST LOSS RESULTING FROM ACTS OR OMISSIONS**
20 **ARISING FROM FRAUD, DISHONESTY, OR CRIMINAL ACTS BY:**

21 (I) **ANY OFFICER, DIRECTOR, MANAGING AGENT, OR OTHER**
22 **AGENT OR EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF**
23 **THE COOPERATIVE HOUSING CORPORATION WHO CONTROLS OR DISBURSES**
24 **FUNDS; AND**

25 (II) **ANY MANAGEMENT COMPANY EMPLOYING A**
26 **MANAGEMENT AGENT OR OTHER EMPLOYEE CHARGED WITH THE OPERATION**
27 **OR MAINTENANCE OF THE COOPERATIVE HOUSING CORPORATION WHO**
28 **CONTROLS OR DISBURSES FUNDS.**

29 (B) **A COPY OF THE FIDELITY INSURANCE POLICY SHALL BE INCLUDED**
30 **IN THE BOOKS AND RECORDS KEPT AND MADE AVAILABLE BY OR ON BEHALF OF**
31 **THE COOPERATIVE HOUSING CORPORATION UNDER § 5–6B–18.5 OF THIS**
32 **SUBTITLE.**

33 (C) (1) **THE AMOUNT OF THE FIDELITY INSURANCE REQUIRED UNDER**
34 **SUBSECTION (A) OF THIS SECTION SHALL EQUAL AT LEAST THE LESSER OF:**

1 (I) 3 MONTHS' WORTH OF GROSS COMMON CHARGES AND
2 THE TOTAL AMOUNT HELD IN ALL INVESTMENT ACCOUNTS AT THE TIME THE
3 FIDELITY INSURANCE IS ISSUED; OR

4 (II) ~~\$5,000,000~~ \$3,000,000.

5 (2) THE TOTAL LIABILITY OF THE INSURANCE TO ALL INSURED
6 PERSONS UNDER THE FIDELITY INSURANCE MAY NOT EXCEED THE SUM OF THE
7 FIDELITY INSURANCE.

8 (D) IF A MEMBER BELIEVES THAT THE BOARD OF DIRECTORS OR OTHER
9 GOVERNING BODY OF A COOPERATIVE HOUSING CORPORATION HAS FAILED TO
10 COMPLY WITH THE REQUIREMENTS OF THIS SECTION, THE AGGRIEVED MEMBER
11 MAY SUBMIT THE DISPUTE ~~FOR ADJUDICATION~~ TO THE DIVISION OF CONSUMER
12 PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL UNDER
13 § ~~5-6B-12(c)~~ 5-6B-12 OF THIS SUBTITLE.

14 Article - Real Property

15 11-114.1.

16 (A) (1) THE COUNCIL OF UNIT OWNERS OR OTHER GOVERNING BODY
17 OF A CONDOMINIUM SHALL PURCHASE FIDELITY INSURANCE NOT LATER THAN
18 THE TIME OF THE FIRST CONVEYANCE OF A UNIT TO A PERSON OTHER THAN
19 THE DEVELOPER AND SHALL KEEP FIDELITY INSURANCE IN PLACE FOR EACH
20 YEAR THEREAFTER.

21 (2) THE FIDELITY INSURANCE REQUIRED UNDER PARAGRAPH (1)
22 OF THIS SUBSECTION SHALL PROVIDE FOR THE INDEMNIFICATION OF THE
23 ~~COUNCIL OF UNIT OWNERS OR OTHER GOVERNING BODY OF THE~~ CONDOMINIUM
24 AGAINST LOSS RESULTING FROM ACTS OR OMISSIONS ARISING FROM FRAUD,
25 DISHONESTY, OR CRIMINAL ACTS BY:

26 (I) ANY OFFICER, DIRECTOR, MANAGING AGENT, OR OTHER
27 AGENT OR EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF
28 THE CONDOMINIUM WHO CONTROLS OR DISBURSES FUNDS; AND

29 (II) ANY MANAGEMENT COMPANY EMPLOYING A
30 MANAGEMENT AGENT OR OTHER EMPLOYEE CHARGED WITH THE OPERATION
31 OR MAINTENANCE OF THE CONDOMINIUM WHO CONTROLS OR DISBURSES
32 FUNDS.

33 (B) A COPY OF THE FIDELITY INSURANCE POLICY SHALL BE INCLUDED
34 IN THE BOOKS AND RECORDS KEPT AND MADE AVAILABLE BY THE COUNCIL OF
35 UNIT OWNERS UNDER § 11-116 OF THIS TITLE.

1 (C) (1) **THE AMOUNT OF THE FIDELITY INSURANCE REQUIRED UNDER**
2 **SUBSECTION (A) OF THIS SECTION SHALL EQUAL AT LEAST THE LESSER OF:**

3 (I) **3 MONTHS' WORTH OF GROSS ANNUAL ASSESSMENTS**
4 **AND THE TOTAL AMOUNT HELD IN ALL INVESTMENT ACCOUNTS AT THE TIME**
5 **THE FIDELITY INSURANCE IS ISSUED; OR**

6 (II) **~~\$5,000,000~~ \$3,000,000.**

7 (2) **THE TOTAL LIABILITY OF THE INSURANCE TO ALL INSURED**
8 **PERSONS UNDER THE FIDELITY INSURANCE MAY NOT EXCEED THE SUM OF THE**
9 **FIDELITY INSURANCE.**

10 (D) **IF A UNIT OWNER BELIEVES THAT THE COUNCIL OF UNIT OWNERS**
11 **OR OTHER GOVERNING BODY OF A CONDOMINIUM HAS FAILED TO COMPLY WITH**
12 **THE REQUIREMENTS OF THIS SECTION, THE AGGRIEVED UNIT OWNER MAY**
13 **SUBMIT THE DISPUTE ~~FOR ADJUDICATION~~ TO THE DIVISION OF CONSUMER**
14 **PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL UNDER § ~~11-130(C)~~**
15 **11-130 OF THIS TITLE.**

16 **11B-111.6.**

17 (A) (1) **THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A**
18 **HOMEOWNERS ASSOCIATION SHALL PURCHASE FIDELITY INSURANCE NOT**
19 **LATER THAN THE TIME OF THE FIRST CONVEYANCE OF A LOT TO A PERSON**
20 **OTHER THAN THE DECLARANT AND SHALL KEEP FIDELITY INSURANCE IN PLACE**
21 **FOR EACH YEAR THEREAFTER.**

22 (2) **THE FIDELITY INSURANCE REQUIRED UNDER PARAGRAPH (1)**
23 **OF THIS SUBSECTION SHALL PROVIDE FOR THE INDEMNIFICATION OF THE**
24 **HOMEOWNERS ASSOCIATION AGAINST LOSS RESULTING FROM ACTS OR**
25 **OMISSIONS ARISING FROM FRAUD, DISHONESTY, OR CRIMINAL ACTS BY:**

26 (I) **ANY OFFICER, DIRECTOR, MANAGING AGENT, OR OTHER**
27 **AGENT OR EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF**
28 **THE HOMEOWNERS ASSOCIATION WHO CONTROLS OR DISBURSES FUNDS; AND**

29 (II) **ANY MANAGEMENT COMPANY EMPLOYING A**
30 **MANAGEMENT AGENT OR OTHER EMPLOYEE CHARGED WITH THE OPERATION**
31 **OR MAINTENANCE OF THE HOMEOWNERS ASSOCIATION WHO CONTROLS OR**
32 **DISBURSES FUNDS.**

1 (B) A COPY OF THE FIDELITY INSURANCE POLICY SHALL BE INCLUDED
2 IN THE BOOKS AND RECORDS KEPT AND MADE AVAILABLE BY OR ON BEHALF OF
3 THE HOMEOWNERS ASSOCIATION UNDER § 11B-112 OF THIS TITLE.

4 (C) (1) THE AMOUNT OF THE FIDELITY INSURANCE REQUIRED UNDER
5 SUBSECTION (A) OF THIS SECTION SHALL EQUAL AT LEAST THE LESSER OF:

6 (I) 3 MONTHS' WORTH OF GROSS ANNUAL HOMEOWNERS
7 ASSOCIATION FEES AND THE TOTAL AMOUNT HELD IN ALL INVESTMENT
8 ACCOUNTS AT THE TIME THE FIDELITY INSURANCE IS ISSUED; OR

9 (II) ~~\$5,000,000~~ \$3,000,000.

10 (2) THE TOTAL LIABILITY OF THE INSURANCE TO ALL INSURED
11 PERSONS UNDER THE FIDELITY INSURANCE MAY NOT EXCEED THE SUM OF THE
12 FIDELITY INSURANCE.

13 (D) IF A LOT OWNER BELIEVES THAT THE BOARD OF DIRECTORS OR
14 OTHER GOVERNING BODY OF A HOMEOWNERS ASSOCIATION HAS FAILED TO
15 COMPLY WITH THE REQUIREMENTS OF THIS SECTION, THE AGGRIEVED LOT
16 OWNER MAY SUBMIT THE DISPUTE ~~FOR ADJUDICATION~~ TO THE DIVISION OF
17 CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL UNDER
18 § ~~11B-115(c)~~ 11B-115 OF THIS TITLE.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.