

SENATE BILL 147

N1

9lr0505
CF 9lr1663

By: **Senator Kelley**

Introduced and read first time: January 19, 2009

Assigned to: Judicial Proceedings

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 State Treasurer to
17 hold the Fund separately and the Comptroller to account for the Fund;
18 providing for the contents of the Fund; providing for the use of the Fund;
19 requiring the State Treasurer to invest the Fund in a certain manner; providing
20 that expenditures from the Fund may be made in a certain manner; requiring
21 the Office of Legislative Audits to audit the accounts and transactions of the
22 Fund; exempting a certain homeowners association from this Act; defining
23 certain terms; and generally relating to establishing the office of Common
24 Ownership Community Ombudsman.

25 BY adding to

26 Article – Real Property

27 Section 11C–101 through 11C–402 to be under the new title “Title 11C.
28 Common Ownership Community Ombudsman”

29 Annotated Code of Maryland

30 (2003 Replacement Volume and 2008 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Real Property**

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

5 **SUBTITLE 1. DEFINITIONS AND SCOPE.**

6 **11C-101.**

7 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (B) “COMMON OWNERSHIP COMMUNITY” MEANS:

10 (1) A CONDOMINIUM, AS DEFINED IN § 11-101 OF THIS ARTICLE;

11 (2) A COOPERATIVE HOUSING CORPORATION, AS DEFINED IN §
12 5-6B-01 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE; OR

13 (3) A HOMEOWNERS ASSOCIATION, AS DEFINED IN § 11B-101 OF
14 THIS ARTICLE.

15 (C) “DEVELOPMENT” HAS THE MEANING STATED IN § 11B-101 OF THIS
16 ARTICLE.

17 (D) “FUND” MEANS THE COMMON OWNERSHIP COMMUNITY
18 OMBUDSMAN FUND ESTABLISHED UNDER § 11C-401 OF THIS TITLE.

19 (E) “LOT” HAS THE MEANING STATED IN § 11B-101 OF THIS ARTICLE.

20 (F) “MEMBER” HAS THE MEANING STATED IN § 5-6B-01 OF THE
21 CORPORATIONS AND ASSOCIATIONS ARTICLE.

22 (G) “OMBUDSMAN” MEANS THE COMMON OWNERSHIP COMMUNITY
23 OMBUDSMAN ESTABLISHED UNDER § 11C-201 OF THIS TITLE.

24 (H) “SECRETARY” MEANS THE SECRETARY OF LABOR, LICENSING, AND
25 REGULATION.

26 (I) “UNIT” HAS THE MEANING STATED IN § 11-101 OF THIS ARTICLE.

1 **11C-102.**

2 **THIS TITLE DOES NOT APPLY TO A HOMEOWNERS ASSOCIATION**
3 **GOVERNING A DEVELOPMENT THAT CONTAINS AT LEAST 13,000 ACRES OF LAND**
4 **AND HAS A POPULATION OF AT LEAST 80,000 INDIVIDUALS.**

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

6 **11C-201.**

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

9 **11C-202.**

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

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

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

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

19 **11C-203.**

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

22 **11C-204.**

23 **IN ADDITION TO ANY DUTIES SET FORTH ELSEWHERE, THE**
24 **OMBUDSMAN SHALL:**

25 **(1) DEVELOP AN EDUCATION PROGRAM FOR RESIDENTS IN A**
26 **COMMON OWNERSHIP COMMUNITY THAT INCLUDES, AT A MINIMUM,**
27 **INFORMATION ABOUT:**

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

1 **(II) RIGHTS AND DUTIES OF RESIDENTS IN A COMMON**
2 **OWNERSHIP COMMUNITY; AND**

3 **(III) ALTERNATIVE DISPUTE RESOLUTION PROCESSES,**
4 **INCLUDING:**

5 1. **MEDIATION;**

6 2. **ARBITRATION; AND**

7 3. **OTHER NONJUDICIAL DISPUTE RESOLUTION**
8 **PROCESSES;**

9 **(2) DEVELOP AN EDUCATION PROGRAM FOR COMMON**
10 **OWNERSHIP COMMUNITY GOVERNING BODIES THAT INCLUDES, AT A MINIMUM,**
11 **INFORMATION ABOUT:**

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

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

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

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

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

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

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

24 **(6) ON OR BEFORE DECEMBER 31 OF EACH YEAR, SUBMIT TO**
25 **THE SECRETARY AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE**
26 **GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY AN ANNUAL REPORT THAT**
27 **INCLUDES AT LEAST THE FOLLOWING INFORMATION CONCERNING THE MOST**
28 **RECENTLY COMPLETED FISCAL YEAR ENDING JUNE 30:**

1 (I) **OPERATIONS OF THE OFFICE OF THE OMBUDSMAN,**
2 **INCLUDING THE NUMBER OF COMPLAINTS RECEIVED AND THE NUMBER OF**
3 **REFERRALS TO ALTERNATIVE DISPUTE RESOLUTION; AND**

4 (II) **AMENDMENTS PROPOSED BY THE OMBUDSMAN**
5 **REGARDING THIS TITLE.**

6 **11C-205.**

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

9 **SUBTITLE 3. REGISTRATION.**

10 **11C-301.**

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

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

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

17 (1) **THE MEMBERSHIP OF THE GOVERNING BODY OF THE**
18 **COMMON OWNERSHIP COMMUNITY FOR THE UPCOMING YEAR, INCLUDING**
19 **CONTACT INFORMATION;**

20 (2) **THE MANAGING AGENT OF THE COMMON OWNERSHIP**
21 **COMMUNITY FOR THE UPCOMING YEAR, INCLUDING CONTACT INFORMATION;**
22 **AND**

23 (3) (I) **THE NUMBER OF UNITS, IF THE COMMON OWNERSHIP**
24 **COMMUNITY IS A CONDOMINIUM;**

25 (II) **THE NUMBER OF MEMBERS, IF THE COMMON**
26 **OWNERSHIP COMMUNITY IS A COOPERATIVE HOUSING CORPORATION; OR**

27 (III) **THE NUMBER OF LOTS, IF THE COMMON OWNERSHIP**
28 **COMMUNITY IS A HOMEOWNERS ASSOCIATION.**

29 (C) **A COMMON OWNERSHIP COMMUNITY IS EXEMPT FROM**
30 **REGISTRATION UNDER SUBSECTION (A) OF THIS SECTION IF:**

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

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

6 **11C-302.**

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

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

10 (1) UNIT IN A CONDOMINIUM;

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

12 (3) LOT IN A DEVELOPMENT.

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

14 **11C-401.**

15 (A) THERE IS A COMMON OWNERSHIP COMMUNITY OMBUDSMAN
16 FUND.

17 (B) THE PURPOSE OF THE FUND IS TO PAY ALL COSTS AND EXPENSES
18 INCURRED BY THE OMBUDSMAN IN CARRYING OUT THIS TITLE, INCLUDING:

19 (1) EXPENDITURES AUTHORIZED UNDER THIS TITLE; AND

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

21 **11C-402.**

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

24 (2) THE STATE TREASURER SHALL HOLD THE FUND
25 SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

26 (B) THE FUND CONSISTS OF:

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

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

4 (3) **MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;**
5 **AND**

6 (4) **ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED**
7 **FOR THE BENEFIT OF THE FUND.**

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

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

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

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

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