

# HOUSE BILL 702

N1

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By: **Delegates Stein, Beidle, Glenn, and Lafferty**

Introduced and read first time: February 4, 2010

Assigned to: Environmental Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 19, 2010

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Common Ownership Communities – Fidelity ~~Insurance or~~ Insurance –**  
3 **Fidelity Bond**

4 FOR the purpose of defining a certain ~~term~~ type of insurance to include a certain type  
5 of bond; authorizing certain governing bodies of a cooperative housing  
6 corporation, a condominium, or a homeowners association to satisfy the  
7 requirement of purchasing fidelity insurance by purchasing a fidelity bond;  
8 requiring a copy of a certain fidelity insurance policy or fidelity bond to be  
9 included in the books and records kept and made available by or on behalf of  
10 certain common ownership communities; making technical changes; and  
11 generally relating to fidelity insurance and common ownership communities.

12 BY repealing and reenacting, with amendments,  
13 Article – Corporations and Associations  
14 Section 5–6B–18.6  
15 Annotated Code of Maryland  
16 (2007 Replacement Volume and 2009 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article – Real Property  
19 Section 11–114.1 and 11B–111.6  
20 Annotated Code of Maryland  
21 (2003 Replacement Volume and 2009 Supplement)

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

3 **Article – Corporations and Associations**

4 5–6B–18.6.

5 (a) **IN THIS SECTION, “FIDELITY INSURANCE” INCLUDES A FIDELITY**  
6 **BOND.**

7 **(B)** (1) The board of directors or other governing body of a cooperative  
8 housing corporation shall purchase fidelity insurance not later than the time of the  
9 first sale of a cooperative interest with respect to a unit to a person other than the  
10 developer and shall keep fidelity insurance in place for each year thereafter.

11 (2) The fidelity insurance required under paragraph (1) of this  
12 subsection shall provide for the indemnification of the cooperative housing corporation  
13 against loss resulting from acts or omissions arising from fraud, dishonesty, or  
14 criminal acts by:

15 (i) Any officer, director, managing agent, or other agent or  
16 employee charged with the operation or maintenance of the cooperative housing  
17 corporation who controls or disburses funds; and

18 (ii) Any management company employing a management agent  
19 or other employee charged with the operation or maintenance of the cooperative  
20 housing corporation who controls or disburses funds.

21 **[(b)] (C)** A copy of the fidelity insurance policy **OR FIDELITY BOND** shall be  
22 included in the books and records kept and made available by or on behalf of the  
23 cooperative housing corporation under § 5–6B–18.5 of this subtitle.

24 **[(c)] (D)** (1) The amount of the fidelity insurance required under  
25 subsection **[(a)] (B)** of this section shall equal at least the lesser of:

26 (i) 3 months’ worth of gross common charges and the total  
27 amount held in all investment accounts at the time the fidelity insurance is issued; or

28 (ii) \$3,000,000.

29 (2) The total liability of the insurance to all insured persons under the  
30 fidelity insurance may not exceed the sum of the fidelity insurance.

31 **[(d)] (E)** If a member believes that the board of directors or other governing  
32 body of a cooperative housing corporation has failed to comply with the requirements  
33 of this section, the aggrieved member may submit the dispute to the Division of

1 Consumer Protection of the Office of the Attorney General under § 5–6B–12 of this  
2 subtitle.

3 **Article – Real Property**

4 11–114.1.

5 (a) **IN THIS SECTION, “FIDELITY INSURANCE” INCLUDES A FIDELITY**  
6 **BOND.**

7 **(B)** (1) The council of unit owners or other governing body of a  
8 condominium shall purchase fidelity insurance not later than the time of the first  
9 conveyance of a unit to a person other than the developer and shall keep fidelity  
10 insurance in place for each year thereafter.

11 (2) The fidelity insurance required under paragraph (1) of this  
12 subsection shall provide for the indemnification of the condominium against loss  
13 resulting from acts or omissions arising from fraud, dishonesty, or criminal acts by:

14 (i) Any officer, director, managing agent, or other agent or  
15 employee charged with the operation or maintenance of the condominium who controls  
16 or disburses funds; and

17 (ii) Any management company employing a management agent  
18 or other employee charged with the operation or maintenance of the condominium who  
19 controls or disburses funds.

20 **[(b)] (C)** A copy of the fidelity insurance policy **OR FIDELITY BOND** shall be  
21 included in the books and records kept and made available by the council of unit  
22 owners under § 11–116 of this title.

23 **[(c)] (D)** (1) The amount of the fidelity insurance required under  
24 subsection **[(a)] (B)** of this section shall equal at least the lesser of:

25 (i) 3 months’ worth of gross annual assessments and the total  
26 amount held in all investment accounts at the time the fidelity insurance is issued; or

27 (ii) \$3,000,000.

28 (2) The total liability of the insurance to all insured persons under the  
29 fidelity insurance may not exceed the sum of the fidelity insurance.

30 **[(d)] (E)** If a unit owner believes that the council of unit owners or other  
31 governing body of a condominium has failed to comply with the requirements of this  
32 section, the aggrieved unit owner may submit the dispute to the Division of Consumer  
33 Protection of the Office of the Attorney General under § 11–130 of this title.

1 11B-111.6.

2 (a) IN THIS SECTION, "FIDELITY INSURANCE" INCLUDES A FIDELITY  
3 BOND.

4 (B) (1) The board of directors or other governing body of a homeowners  
5 association shall purchase fidelity insurance not later than the time of the first  
6 conveyance of a lot to a person other than the declarant and shall keep fidelity  
7 insurance in place for each year thereafter.

8 (2) The fidelity insurance required under paragraph (1) of this  
9 subsection shall provide for the indemnification of the homeowners association against  
10 loss resulting from acts or omissions arising from fraud, dishonesty, or criminal acts  
11 by:

12 (i) Any officer, director, managing agent, or other agent or  
13 employee charged with the operation or maintenance of the homeowners association  
14 who controls or disburses funds; and

15 (ii) Any management company employing a management agent  
16 or other employee charged with the operation or maintenance of the homeowners  
17 association who controls or disburses funds.

18 [(b)] (C) A copy of the fidelity insurance policy OR FIDELITY BOND shall be  
19 included in the books and records kept and made available by or on behalf of the  
20 homeowners association under § 11B-112 of this title.

21 [(c)] (D) (1) The amount of the fidelity insurance required under  
22 subsection [(a)] (B) of this section shall equal at least the lesser of:

23 (i) 3 months' worth of gross annual homeowners association  
24 fees and the total amount held in all investment accounts at the time the fidelity  
25 insurance is issued; or

26 (ii) \$3,000,000.

27 (2) The total liability of the insurance to all insured persons under the  
28 fidelity insurance may not exceed the sum of the fidelity insurance.

29 [(d)] (E) If a lot owner believes that the board of directors or other  
30 governing body of a homeowners association has failed to comply with the  
31 requirements of this section, the aggrieved lot owner may submit the dispute to the  
32 Division of Consumer Protection of the Office of the Attorney General under §  
33 11B-115 of this title.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
35 October 1, 2010.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.