

## Chapter 615

(House Bill 702)

AN ACT concerning

### **Common Ownership Communities – Fidelity ~~Insurance~~ or Insurance – Fidelity Bond**

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

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

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

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

#### **Article – Corporations and Associations**

5–6B–18.6.

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

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

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

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

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

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

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

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

(ii) \$3,000,000.

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

**[(d)] (E)** If a member believes that the board of directors or other governing body of a cooperative housing corporation has failed to comply with the requirements of this section, the aggrieved member may submit the dispute to the Division of Consumer Protection of the Office of the Attorney General under § 5-6B-12 of this subtitle.

### **Article – Real Property**

11-114.1.

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

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

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

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

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

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

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

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

(ii) \$3,000,000.

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

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

11B–111.6.

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

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

(2) The fidelity insurance required under paragraph (1) of this subsection shall provide for the indemnification of the homeowners association against

loss resulting from acts or omissions arising from fraud, dishonesty, or criminal acts by:

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

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

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

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

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

(ii) \$3,000,000.

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

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

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

**Approved by the Governor, May 20, 2010.**