

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 702

(Delegate Stein, *et al.*)

Environmental Matters

Judicial Proceedings

Common Ownership Communities - Fidelity Insurance - Fidelity Bond

This bill allows the governing body of a cooperative housing corporation, condominium, or homeowners association (common ownership community or COC) to satisfy an existing requirement to purchase fidelity insurance by purchasing a fidelity bond.

Fiscal Summary

State Effect: If the Consumer Protection Division of the Office of the Attorney General receives fewer than 50 complaints per year stemming from the bill, the additional workload can be handled with existing resources. No effect on revenues.

Local Effect: None. The bill does not directly affect local finances or operations.

Small Business Effect: Potential minimal.

Analysis

Current Law: Chapters 77 and 78 of 2009 required the governing body of a COC to purchase fidelity insurance no later than the time of the first sale of a cooperative interest or first conveyance of a unit or lot to a person other than the developer. The fidelity insurance must provide for the indemnification of COC against loss resulting from acts or omissions arising from fraud, dishonesty, or criminal acts by the COC's officers, directors, managing agents, management companies, or other agents or associated employees.

A copy of the fidelity insurance policy must be included in the books and records kept and made available by or on behalf of COC as required by law. The amount of the

fidelity insurance must equal the lesser of *either* three months' worth of gross common charges, annual charges, or fees and the total amount held in all investment accounts at the time the fidelity insurance is issued *or* \$3.0 million. The total liability of the insurance to all insured persons under the fidelity insurance may not exceed the sum of the fidelity insurance.

If a unit owner or lot owner believes that the board of directors, council of unit owners, or other governing body of COC has failed to comply with the requirements of the bill, the aggrieved owner may submit the dispute to the Consumer Protection Division of the Office of the Attorney General.

Background: A fidelity insurance policy and a fidelity bond both offer protection from the misconduct and fraudulent activities of an employee. Generally, compared to fidelity insurance, a fidelity bond (1) has broader coverage; (2) is easier to expand or alter the employees whose actions are covered; (3) does not usually have an expiration date; (4) does not have a deductible; and (5) can be obtained faster and cost less than a fidelity insurance policy because less underwriting is involved.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

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Analysis by: Jason F. Weintraub

Direct Inquiries to:
(410) 946-5510
(301) 970-5510