

# SENATE BILL 548

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By: **Senators King, Middleton, Montgomery, and Young**

Introduced and read first time: February 4, 2011

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Condominium and Homeowners Associations – Assessments – Increase**  
3 **Necessary to Meet Government Requirements**

4 FOR the purpose of authorizing the board of directors of a condominium or  
5 homeowners association to increase the amount of assessments without the  
6 approval of the unit owners or lot owners for the purpose of meeting certain  
7 financial obligations resulting from the imposition of government charges, fees,  
8 or taxes since the adoption of the previous annual budget or providing for  
9 certain increased costs resulting from certain changes in laws since the  
10 adoption of the previous annual budget; requiring the increase in the amount of  
11 assessments to be approved by an amendment to the budget adopted by the  
12 board of directors of the condominium or homeowners association at a certain  
13 meeting on not less than 10 days' written notice to the unit owners or lot  
14 owners; making conforming changes; and generally relating to an increase in  
15 the assessment of a condominium or homeowners association necessary to meet  
16 government requirements.

17 BY repealing and reenacting, with amendments,  
18 Article – Real Property  
19 Section 11–109.2, 11–110(b), and 11B–112.2  
20 Annotated Code of Maryland  
21 (2010 Replacement Volume and 2010 Supplement)

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

24 **Article – Real Property**

25 11–109.2.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) The council of unit owners shall cause to be prepared and submitted to  
2 the unit owners an annual proposed budget at least 30 days before its adoption.

3 (b) The annual budget shall provide for at least the following items:

4 (1) Income;

5 (2) Administration;

6 (3) Maintenance;

7 (4) Utilities;

8 (5) General expenses;

9 (6) Reserves; and

10 (7) Capital items.

11 (c) The budget shall be adopted at an open meeting of the council of unit  
12 owners or any other body to which the council of unit owners delegates responsibilities  
13 for preparing and adopting the budget.

14 (d) Any expenditure made other than those made because of conditions  
15 which, if not corrected, could reasonably result in a threat to the health or safety of the  
16 unit owners or a significant risk of damage to the condominium, that would result in  
17 an increase in an amount of assessments for the current fiscal year of the  
18 condominium in excess of 15 percent of the budgeted amount previously adopted, shall  
19 be approved by an amendment to the budget adopted at a special meeting, upon not  
20 less than 10 days written notice to the council of unit owners.

21 (e) **(1) NOTWITHSTANDING SUBSECTION (D) OF THIS SECTION, THE**  
22 **COUNCIL OF UNIT OWNERS MAY INCREASE THE AMOUNT OF THE ASSESSMENTS**  
23 **FOR THE CURRENT FISCAL YEAR OF THE CONDOMINIUM WITHOUT THE**  
24 **APPROVAL OF THE UNIT OWNERS FOR THE PURPOSE OF:**

25 **(I) MEETING FINANCIAL OBLIGATIONS RESULTING FROM**  
26 **THE IMPOSITION OF CHARGES, FEES, OR TAXES BY THE FEDERAL, STATE, OR**  
27 **LOCAL GOVERNMENT THAT HAVE BEEN INCURRED SINCE THE ADOPTION OF**  
28 **THE LAST ANNUAL BUDGET; OR**

29 **(II) PROVIDING FOR INCREASED COSTS DIRECTLY**  
30 **RESULTING FROM CHANGES IN FEDERAL, STATE, OR LOCAL LAWS THAT HAVE**  
31 **GONE INTO EFFECT SINCE THE ADOPTION OF THE LAST ANNUAL BUDGET.**

1           **(2)** AN INCREASE IN THE AMOUNT OF THE ASSESSMENTS FOR THE  
2 CONDOMINIUM FOR THE CURRENT FISCAL YEAR THAT IS MADE UNDER  
3 PARAGRAPH **(1)** OF THIS SUBSECTION SHALL BE APPROVED BY AN AMENDMENT  
4 TO THE BUDGET ADOPTED BY THE BOARD OF DIRECTORS AT A REGULAR OR  
5 SPECIAL MEETING, ON NOT LESS THAN 10 DAYS' WRITTEN NOTICE TO THE UNIT  
6 OWNERS.

7           **(F)** The adoption of a budget shall not impair the authority of the council of  
8 unit owners to obligate the council of unit owners for expenditures for any purpose  
9 consistent with any provision of this title.

10           **[(f)] (G)** The provisions of this section do not apply to a condominium that  
11 is occupied and used solely for nonresidential purposes.

12 11–110.

13           **(b) (1)** Funds for the payment of current common expenses and for the  
14 creation of reserves for the payment of future common expenses shall be obtained by  
15 assessments against the unit owners in proportion to their percentage interests in  
16 common expenses and common profits.

17           **(2) (i)** Where provided in the declaration or the bylaws, charges for  
18 utility services may be assessed and collected on the basis of usage rather than on the  
19 basis of percentage interests.

20                           **(ii)** If provided by the declaration, assessments for expenses  
21 related to maintenance of the limited common elements may be charged to the unit  
22 owner or owners who are given the exclusive right to use the limited common  
23 elements.

24                           **(iii)** Assessments for charges under this paragraph may be  
25 enforced in the same manner as assessments for common expenses.

26                           **(IV) 1. NOTWITHSTANDING THE PROVISIONS OF THE**  
27 **DECLARATION OR BYLAWS, THE COUNCIL OF UNIT OWNERS MAY INCREASE THE**  
28 **AMOUNT OF THE ASSESSMENTS FOR THE CURRENT FISCAL YEAR WITHOUT THE**  
29 **APPROVAL OF THE UNIT OWNERS FOR THE PURPOSE OF:**

30                                   **A. MEETING FINANCIAL OBLIGATIONS RESULTING**  
31 **FROM THE IMPOSITION OF CHARGES, FEES, OR TAXES BY THE FEDERAL, STATE,**  
32 **OR LOCAL GOVERNMENT THAT HAVE BEEN INCURRED SINCE THE ADOPTION OF**  
33 **THE LAST ANNUAL BUDGET; OR**

34                                   **B. PROVIDING FOR INCREASED COSTS DIRECTLY**  
35 **RESULTING FROM CHANGES IN FEDERAL, STATE, OR LOCAL LAWS THAT HAVE**  
36 **GONE INTO EFFECT SINCE THE ADOPTION OF THE LAST ANNUAL BUDGET.**

1                                   **2. AN INCREASE IN THE AMOUNT OF ASSESSMENTS**  
2 **FOR THE CONDOMINIUM THAT IS MADE UNDER SUBSUBPARAGRAPH 1 OF THIS**  
3 **SUBPARAGRAPH SHALL BE APPROVED BY AN AMENDMENT TO THE BUDGET**  
4 **ADOPTED BY THE BOARD OF DIRECTORS AT A REGULAR OR SPECIAL MEETING,**  
5 **ON NOT LESS THAN 10 DAYS' WRITTEN NOTICE TO THE UNIT OWNERS.**

6 11B-112.2.

7           (a) This section applies only to a homeowners association that has  
8 responsibility under its declaration for maintaining and repairing common areas.

9           (b) (1) The board of directors or other governing body of a homeowners  
10 association shall cause to be prepared and submitted to the lot owners an annual  
11 proposed budget at least 30 days before its adoption.

12                           (2) The annual proposed budget may be sent to each lot owner by  
13 electronic transmission, by posting on the homeowners association's home page, or by  
14 including the annual proposed budget in the homeowners association's newsletter.

15           (c) The annual budget shall provide information on or expenditures for at  
16 least the following items:

- 17                           (1) Income;
- 18                           (2) Administration;
- 19                           (3) Maintenance;
- 20                           (4) Utilities;
- 21                           (5) General expenses;
- 22                           (6) Reserves; and
- 23                           (7) Capital expenses.

24           (d) (1) The budget shall be adopted at an open meeting of the homeowners  
25 association or any other body to which the homeowners association delegates  
26 responsibilities for preparing and adopting the budget.

27                           (2) (i) Notice of the meeting at which the proposed budget will be  
28 considered shall be sent to each lot owner.

29   (ii) Notice under subparagraph (i) of this paragraph may be sent  
30 by electronic transmission, by posting on the homeowners association's home page, or  
31 by including the notice in the homeowners association's newsletter.

1           (e) Except for an expenditure made by the homeowners association because  
2 of a condition that, if not corrected, could reasonably result in a threat to the health or  
3 safety of the lot owners or a significant risk of damage to the development, any  
4 expenditure that would result in an increase in an amount of assessments for the  
5 current fiscal year of the homeowners association in excess of 15% of the budgeted  
6 amount previously adopted shall be approved by an amendment to the budget adopted  
7 at a special meeting for which not less than 10 days written notice shall be provided to  
8 the lot owners.

9           (f) The adoption of a budget does not impair the authority of the  
10 homeowners association to obligate the homeowners association for expenditures for  
11 any purpose consistent with any provision of this title.

12           **(G) (1) NOTWITHSTANDING SUBSECTION (E) OF THIS SECTION, THE**  
13 **BOARD OF DIRECTORS MAY INCREASE THE AMOUNT OF THE ASSESSMENTS FOR**  
14 **THE HOMEOWNERS ASSOCIATION ABOVE THE MAXIMUM AMOUNT PERMITTED IN**  
15 **THE DECLARATION OR BYLAWS WITHOUT A VOTE OF THE LOT OWNERS FOR THE**  
16 **PURPOSE OF:**

17                   **(I) MEETING FINANCIAL OBLIGATIONS RESULTING FROM**  
18 **THE IMPOSITION OF CHARGES, FEES, OR TAXES BY THE FEDERAL, STATE, OR**  
19 **LOCAL GOVERNMENT THAT HAVE BEEN INCURRED SINCE THE ADOPTION OF**  
20 **THE LAST ANNUAL BUDGET; OR**

21                   **(II) PROVIDING FOR INCREASED COSTS DIRECTLY**  
22 **RESULTING FROM CHANGES IN FEDERAL, STATE, OR LOCAL LAW THAT HAVE**  
23 **GONE INTO EFFECT SINCE THE ADOPTION OF THE LAST ANNUAL BUDGET.**

24           **(2) AN INCREASE IN THE AMOUNT OF ASSESSMENTS FOR THE**  
25 **HOMEOWNERS ASSOCIATION THAT IS MADE UNDER PARAGRAPH (1) OF THIS**  
26 **SUBSECTION SHALL BE APPROVED BY AN AMENDMENT TO THE BUDGET**  
27 **ADOPTED BY THE BOARD OF DIRECTORS AT A REGULAR OR SPECIAL MEETING,**  
28 **ON NOT LESS THAN 10 DAYS' WRITTEN NOTICE TO THE LOT OWNERS.**

29           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 October 1, 2011.