

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 679

(Delegate Stein)

Environmental Matters

Judicial Proceedings

Real Property - Condominiums - Amendment to Bylaws to Require Unit
Insurance Coverage

This bill authorizes a condominium's bylaws to require that all unit owners maintain condominium insurance on their units. A condominium's council of unit owners may amend the bylaws to require the insurance if at least 51% of unit owners having votes in the council agree to the amendment. If the bylaws require all unit owners to maintain condominium insurance on their units, the bylaws must also require each unit owner to provide evidence of the insurance coverage to the council of unit owners.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations. Any filings with the Secretary of State may be handled within existing resources. 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.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The governance of every condominium is determined by its bylaws, which must be recorded with the declaration. If the council of unit owners is incorporated, the bylaws must be the bylaws of that corporation. The bylaws also may contain a provision regarding the management and operation of the condominium,

including any restriction on or requirement respecting the use and maintenance of the units and the common elements. Unless a higher percentage is required in the bylaws, the bylaws of a condominium may be amended by the affirmative vote of unit owners having at least two-thirds of the votes in the council of unit owners.

In contrast, the declaration of a condominium may be amended in specified circumstances only with the written consent of 80% of the unit owners listed on the current roster. Amendments to correct a declaration may be accomplished by two means, depending on circumstances. First, a council of unit owners may petition the circuit court in equity for the county in which the condominium is located to correct an improper description of the units or common elements or an improper assignment of the percentage interests in the common elements, common expenses, and common profits. The court may reform the declaration to correct the error or omission as the court considers appropriate if specified conditions are met by the council of unit owners.

Second, a council of unit owners or board of directors of a condominium may execute and record a corrective amendment for a specified typographical error in the bylaws, declaration, bylaws, or plat. The council of unit owners or board of directors has to record along with the amendment (1) the consent of any developer with an interest or a specified affidavit that the developer does not object to the amendment; and (2) an affidavit stating a copy of the amendment was sent by first-class mail to the last known address of each unit at least 30 days before the amendment's recordation. The affidavit concerning a developer's failure to object to the amendment must state that the developer (1) has been provided with a copy of the amendment; (2) received notification that the developer has 30 days to object in writing within receipt of the notice and the amendment; and (3) did not object in writing within those 30 days. An amendment under this process is effective upon recordation.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 2, 2011
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