

Chapter 480

(House Bill 789)

AN ACT concerning

Condominiums and Homeowners Associations – Amendment of Governing Documents

FOR the purpose of altering the minimum percentage of affirmative votes of unit owners required to amend the bylaws of a condominium under certain circumstances; repealing certain provisions concerning the minimum percentage of votes needed to amend a governing document of a homeowners association created before a certain date; establishing the minimum percentage of affirmative votes of lot owners required to amend certain governing documents of a homeowners association under certain circumstances; providing for the application of certain provisions of this Act; defining certain terms; and generally relating to the amendment of the governing documents of condominiums and homeowners associations.

BY repealing and reenacting, with amendments,
 Article – Real Property
 Section 11–104(e) and 11B–116
 Annotated Code of Maryland
 (2015 Replacement Volume and 2016 Supplement)

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

Article – Real Property

11–104.

(e) (1) A corrective amendment to the bylaws may be made in accordance with § 11–103.1 of this title, or as provided in paragraph (2) of this subsection.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, [unless a higher percentage is required in the bylaws,] the bylaws may be amended by the affirmative vote of unit owners [having at least 66 2/3 percent of the votes in the council of unit owners] **AS PROVIDED UNDER PARAGRAPH (6) OF THIS SUBSECTION.**

(ii) The bylaws may be amended by the affirmative vote of unit owners having at least 51% of the votes in the council of unit owners for the purpose of requiring all unit owners to maintain condominium unit owner insurance policies on their units.

(3) (i) Except as provided in paragraph (4) of this subsection, if the declaration or bylaws contain a provision requiring any action on the part of the holder of a mortgage or deed of trust on a unit in order to amend the bylaws, that provision shall be deemed satisfied if the procedures under this paragraph are satisfied.

(ii) If the declaration or bylaws contain a provision described in subparagraph (i) of this paragraph, the council of unit owners shall cause to be delivered to each holder of a mortgage or deed of trust entitled to notice, a copy of the proposed amendment to the bylaws.

(iii) If a holder of the mortgage or deed of trust that receives the proposed amendment fails to object, in writing, to the proposed amendment within 60 days from the date of actual receipt of the proposed amendment, the holder shall be deemed to have consented to the adoption of the amendment.

(4) Paragraph (3) of this subsection does not apply to amendments that:

(i) Alter the priority of the lien of the mortgage or deed of trust;

(ii) Materially impair or affect the unit as collateral; or

(iii) Materially impair or affect the right of the holder of the mortgage or deed of trust to exercise any rights under the mortgage, deed of trust, or applicable law.

(5) Each particular set forth in subsection (b) of this section shall be expressed in the bylaws as amended. An amendment under paragraph (2) of this subsection shall be entitled to be recorded if accompanied by a certificate of the person specified in the bylaws to count votes at the meeting of the council of unit owners that the amendment was approved by unit owners having the required percentage of the votes and shall be effective on recordation. This certificate shall be conclusive evidence of approval.

(6) (I) IN THIS PARAGRAPH, “IN GOOD STANDING” MEANS NOT BEING:

~~1. MORE MORE THAN 90 DAYS IN ARREARS IN THE PAYMENT OF ANY ASSESSMENT OR CHARGE DUE TO THE CONDOMINIUM; OR.~~

~~2. IN VIOLATION OF THE DECLARATION, BYLAWS, RULES, OR REGULATIONS OF THE CONDOMINIUM FOR WHICH THE UNIT OWNER HAS BEEN PROVIDED NOTICE AND OPPORTUNITY TO CORRECT.~~

(II) NOTWITHSTANDING THE PROVISIONS OF THE BYLAWS, THE COUNCIL OF UNIT OWNERS MAY AMEND THE BYLAWS BY THE AFFIRMATIVE VOTE OF UNIT OWNERS IN GOOD STANDING HAVING AT LEAST ~~55%~~ 60% OF THE VOTES IN THE COUNCIL, OR BY A LOWER PERCENTAGE IF REQUIRED IN THE BYLAWS.

11B-116.

(a) (1) In this section[, “governing”] **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) **“GOVERNING document” includes:**

[(1)] (I) A declaration;

[(2)] (II) Bylaws;

[(3)] (III) A deed and agreement; and

[(4)] (IV) Recorded covenants and restrictions.

(3) **“IN GOOD STANDING” MEANS NOT BEING:**

~~(I) **MORE MORE THAN 90 DAYS IN ARREARS IN THE PAYMENT OF ANY ASSESSMENT OR CHARGE DUE TO THE HOMEOWNERS ASSOCIATION; OR.**~~

~~(H) **IN VIOLATION OF THE DECLARATION, BYLAWS, RULES, OR REGULATIONS OF THE HOMEOWNERS ASSOCIATION FOR WHICH THE LOT OWNER HAS BEEN PROVIDED NOTICE AND OPPORTUNITY TO CORRECT.**~~

(b) **THIS SECTION DOES NOT APPLY TO A HOMEOWNERS ASSOCIATION THAT ISSUES BONDS OR OTHER LONG-TERM DEBT SECURED IN WHOLE OR IN PART BY ANNUAL CHARGES ASSESSED IN ACCORDANCE WITH A DECLARATION, OR TO A VILLAGE COMMUNITY ASSOCIATION AFFILIATED WITH THE HOMEOWNERS ASSOCIATION.**

(C) Notwithstanding the provisions of a governing document, a homeowners association [created before January 1, 1960,] may amend the governing document [once every 5 years, or more frequently if allowed by the governing document,] by the affirmative vote of lot owners **IN GOOD STANDING** having at least [two-thirds] ~~55%~~ **60%** of the votes in the development, or by a lower percentage if required in the governing document.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.