

**Department of Legislative Services**  
 Maryland General Assembly  
 2017 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 530 (Senator Benson)  
 Judicial Proceedings

**Real Property - Regulation of Common Ownership Community Managers**

This bill creates the State Board of Common Ownership Community Managers to regulate the provision of common ownership community (COC) property management services in Maryland. Appointed by the Governor, the board operates under the authority of the Secretary of Labor, Licensing, and Regulation. The bill sets forth the qualifications for the issuance of licenses and limited licenses to COC managers. The board may discipline a licensee and deny a license to an applicant under specified circumstances. COCs must register annually with the board but are not subject to a fee under the bill; however, the Department of Labor, Licensing, and Regulation (DLLR) has to report to the General Assembly by December 1, 2017, on the imposition of a COC registration fee in relation to the bill’s license and limited license fees as well as the size of a COC. The board is subject to reestablishment and periodic evaluation under the Maryland Program Evaluation Act, with a termination date of October 1, 2027.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by \$341,900 in FY 2018 to establish the board within DLLR. The board becomes operational as a special fund entity in FY 2019 and collects biennial licensing and limited licensing fees sufficient to cover direct and indirect costs. Out-year costs reflect annualization and revenues reflect staggered license renewals under the assumptions discussed below. The bill’s penalty provisions are not expected to have a material effect on State finances or operations.

| (in dollars)   | FY 2018     | FY 2019   | FY 2020     | FY 2021   | FY 2022     |
|----------------|-------------|-----------|-------------|-----------|-------------|
| SF Revenue     | \$0         | \$880,000 | \$10,600    | \$901,200 | \$10,800    |
| GF Expenditure | \$341,900   | \$0       | \$0         | \$0       | \$0         |
| SF Expenditure | \$0         | \$366,400 | \$379,200   | \$392,700 | \$406,900   |
| Net Effect     | (\$341,900) | \$513,600 | (\$368,600) | \$508,600 | (\$396,100) |

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** None; however, COCs and COC managers in Montgomery and Prince George’s counties become subject to regulation at both the State and local levels. The bill’s penalty provisions are not expected to have a material effect on local government finances or operations.

**Small Business Effect:** Meaningful.

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## Analysis

### Bill Summary:

#### *Defined Terms*

The bill defines a “common ownership community” as a condominium organized under the Maryland Condominium Act that is used for residential purposes, a homeowners association organized under the Maryland Homeowners Association Act, and a cooperative housing corporation organized under the Maryland Cooperative Housing Corporation Act.

Any employee of the Columbia Association who provides management services only to the association or the Affiliated Village Associations in Howard County is exempted.

“License” generally means a license issued by the board that allows an individual to provide management services for a COC.

“Limited license” generally means a limited license issued by the board that allows an individual to provide management services for a COC under the supervision of a licensed manager.

Providing management services for a COC means:

- acting with the authority of the COC in its business, legal, financial, or other transactions with COC members and nonmembers;
- executing the resolutions and decisions of a COC or, with the authority of the COC, enforcing the rights of the COC secured by statute, contract, covenant, rule, or bylaw;
- negotiating contracts or otherwise coordinating or arranging for services or the purchase of property and goods for or on behalf of a COC;
- collecting, disbursing, or otherwise exercising dominion or control over money or other property belonging to a COC;
- preparing budgets, financial statements, or other financial reports for a COC;

- arranging, conducting, or coordinating meetings of a COC or the governing body of a COC; or
- offering or soliciting to perform any of the above-mentioned acts or services on behalf of a COC.

*State Board of Common Ownership Community Managers*

The board consists of nine members who serve for a term of four years. A board member may not serve more than two consecutive terms, and the terms of the members are staggered. Board members may not be compensated but are entitled to reimbursement for expenses as provided for in the State budget.

To administer and enforce the bill, the board is required to:

- adopt rules of professional conduct as appropriate for individuals issued a license or a limited license;
- establish criteria and a process for certification of a variety of educational offerings and training programs for issuing licenses or limited licenses;
- establish continuing education requirements for individuals who have been issued a license or a limited license; and
- keep a record of its proceedings.

The board may establish, by regulation, a nonjudicial dispute resolution process to resolve any disciplinary matter, education and training opportunities for governing bodies of COCs, and any other procedures or standards consistent with its mission. The board may also take appropriate actions to enter into a cooperative and information-sharing agreement with any unit of law enforcement as authorized by law, as well as assist a COC in exercising any other rights granted by the bill.

Once licensing activity begins, the board must maintain a public list of the names and mailing addresses of all individuals issued a license or a limited license.

The board must charge fees set to approximately cover both the direct and indirect costs of fulfilling its statutory and regulatory duties and may set those fees by regulation. To inform the fee-setting decision, the Secretary of Labor, Licensing, and Regulation, in consultation with the board, must annually calculate the direct and indirect costs attributable to the board. The board must publish its fee schedule. Each fee established by the board may not be increased annually by more than 12.5% of the existing and corresponding fee. All fee revenue is deposited into a newly created State Board of Common Ownership Community Managers Fund, a special, nonlapsing fund administered by the Secretary.

Interest earnings accrue to the new fund. Expenditures from the fund may only be made in accordance with the State budget.

The Department of Budget and Management, by budget amendment, may advance sufficient funds to the board to allow operations to commence on October 1, 2017, so that licensing and registration functions may be in place by October 1, 2018.

### *Licensing Requirements*

An individual acting as a COC manager in the State must be issued a license by the board prior to providing management services and may only provide management services in fulfillment of a contract with the COC. An applicant must be a holder of a limited license and:

- complete a board-approved training program;
- pass a board-approved examination; and
- have been actively engaged in providing management services for at least 12 months before applying for a license or hold an active board-approved professional designation.

Until the board adopts regulations concerning examination requirements, license applicants may take a nationally prepared and administered standardized examination for the COC management profession that is developed in a specified manner. Additionally, the board may grant a waiver of the license training and examination requirements to any applicant who presents to the board satisfactory evidence, by October 1, 2019, that the applicant provided management services in the State for the two years immediately preceding the application.

An applicant must submit an application to the board and pay an application fee. If an applicant qualifies for a license, the board must send the applicant a notice stating that the applicant has qualified for a license and, on receipt of a license fee, the board will issue a license to the applicant. Upon payment of a license fee, a qualified applicant must be issued a license by the board.

The term of a license is two years. The board must renew and issue a renewal certificate to each qualified holder. The board must provide a renewal application form and notice to the licensee, at least two months before the license expires, stating the license's expiration date, the renewal fee due date, and the amount of the renewal fee. Each renewal certificate issued by the board must include the current license's expiration date.

The board is required to reinstate the license of an individual who has failed to renew his or her license if the individual applies for reinstatement within two years of the license

expiration, pays a reinstatement fee set by the board, and meets the aforementioned renewal requirements. If an applicant applies for reinstatement after the two-year period, the board may either treat the application the same as an initial application or reinstate the license if specific requirements are met.

The board may also grant reciprocity to an individual who has an equivalent license in another U.S. state or territory. The board may issue the license by reciprocity only if the applicant pays a license fee set by the board and provides adequate evidence that the applicant has met substantially equivalent requirements as those in the State. The board must establish standards for the issuance of a license to an individual licensed in another state.

If a COC contracts with a person other than a licensed manager to provide management services, the contract must require that only a licensed manager provide the COC with management services.

#### *Limited Licensing Requirements*

An individual must be issued a limited license by the board before an individual may provide management services for a COC in the State. A holder of a limited license may provide management services only while under the general supervision of a license holder.

An applicant for a limited license must be at least age 18, submit an application on a board-approved form, and pay an application fee. In addition, the applicant must complete a board-approved training program and pass a board-approved examination. If an applicant qualifies for a limited license, the board must send the applicant a notice stating that the applicant has qualified for a limited license and, on receipt of a fee, the board will issue a limited license to the applicant.

The term of a limited license is two years. The board must renew and issue a renewal certificate to each qualified limited license holder. The board must provide a renewal application form and notice to the limited license holder, at least two months before the limited license expires, stating the limited license's expiration date, the renewal fee due date, and the amount of the renewal fee. Each renewal certificate issued by the board must include the current limited license's expiration date.

The board is required to reinstate the limited license of an individual who has failed to renew his or her limited license if the individual applies for reinstatement within two years of the limited license's expiration, pays a reinstatement fee set by the board, and meets the aforementioned renewal requirements. If an applicant applies for reinstatement after the two-year period, the board may either treat the application the same as an initial application or reinstate the limited license if specific requirements are met.

### *Grounds for Denying, Suspending, or Revoking a License or Limited License*

Subject to specified notice and hearing requirements and after considering specified factors, the board may deny a license (or limited license) to an applicant, reprimand a licensee, suspend or revoke a license (or limited license), and/or impose a penalty against a licensee of up to \$5,000 (which is paid to the general fund) if the licensee:

- fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;
- fraudulently or deceptively uses a license;
- is convicted of a felony or a misdemeanor that relates to the applicant's or licensee's fitness and qualifications to provide management services;
- engages in conduct that demonstrates bad faith, incompetency, or untrustworthiness or that constitutes dishonest, fraudulent, or improper dealings;
- fails to properly handle the funds of a COC in accordance with this bill's provisions;
- fails to account in a timely manner for all money and property received on behalf of a COC;
- willfully fails to disclose to a COC relevant material facts of which the licensee has actual knowledge;
- is guilty of gross negligence, incompetence, or misconduct in providing management services;
- has been sanctioned in another state in a matter relating to providing management services;
- violates any of the bill's provisions; or
- violates any regulations adopted by the board.

Before the board takes any of these actions against a licensee, it must give the individual notice and an opportunity for a hearing before the board. If the individual does not appear after due notice has been given, the board may hear and determine the matter. The board may issue a subpoena for the attendance of a witness to testify or the production of evidence in connection with any such proceeding. A circuit court may compel compliance with the subpoena upon petition by the board. An individual who contests a final decision of the board is entitled to judicial review under the Administrative Procedure Act.

The board may reinstate, in accordance with board procedures, a revoked license or, before fulfillment of the conditions of the suspension, any suspended license.

### *Registration*

Each COC must register with the board on or before January 1 of each year and provide the board with specified identifying information and any other information required by the board. If a COC contracts for management services, that manager is responsible for the registration.

### *Miscellaneous Provisions*

A contracting party must file with the Secretary proof, as required by the board, of a fidelity bond or theft insurance of a specified amount, or other board-required comparable written insurance, that covers (1) any person who provides management services for a COC under the terms of a contract and (2) any individual working under the direction of such a person. The Secretary, or the Secretary's designee, must be named as a certificate holder for any fidelity bond or required insurance. In the event the fidelity bond or insurance is cancelled, forfeited, or terminated or the contracting party fails to notify the Secretary of any changes to the fidelity bond or insurance, the Secretary must suspend any license or limited license until proof of compliance is submitted.

A licensed manager must deposit all money received in connection with the provision of management services in one or more of the financial institution accounts of a COC. A licensed manager who provides management services for more than one COC must maintain separate bank accounts for each COC and may not commingle accounts. Each bank account maintained by the licensed manager must be in the name of the COC. A licensed manager who willfully violates the bill's provisions relating to the handling of COC financial institution accounts is guilty of a misdemeanor and subject to a fine of up to \$25,000 and/or imprisonment for up to five years.

### *Additional Enforcement and Penalty Provisions*

A person who is not a licensed manager or holder of a limited license as required but, nonetheless, acts as a licensed COC manager is in violation of the bill. In addition, a person may not represent that he or she is authorized to provide COC management services or give false information to the board in an attempt to obtain a license or limited license. A person whose license or limited license has been suspended or revoked may not provide management services to a COC as an associate, agent, employee, or other subordinate of either a licensed manager or a business entity that provides management services. The board, with the approval of the Attorney General, may sue in the name of the State to enjoin any prohibited activity. The board may also take appropriate actions to assist a COC in exercising the rights of COCs. Violation of the bill's provisions is a misdemeanor and punishable by a fine up to \$5,000 and/or imprisonment for up to three years. The board may also impose a fine of up to \$5,000 for each violation after consideration of specified factors.

## **Current Law:**

### *Regulation of Management Services*

State law does not designate a statewide office to regulate COC management services. Among local governments, only Montgomery and Prince George's counties require some form of COC registration. Montgomery County has required COCs to register since the county created a 15-member volunteer Commission on Common Ownership Communities in 1991. Prince George's County has required COC *management entities* to register with the county's Office of Community Relations since January 1, 2011. In Montgomery County, approximately 1,100 COCs containing 134,000 units are required to be registered annually; the county assesses a \$5 fee per unit within the COC.

### *Fidelity Insurance Requirements for Common Ownership Communities*

State law requires that the board of directors, council of unit owners, or other governing body of a COC purchase fidelity insurance, which is defined to include a fidelity bond, not later than the time of the first conveyance of a cooperative interest, unit, or lot to a person other than the developer, and must keep the insurance in place every subsequent year. The insurance must provide for the indemnification of the COC against loss resulting from acts or omissions arising from fraud, dishonesty, or criminal acts by any officer, director, managing agent, or other agent or employee charged with the operation or maintenance of the COC who controls or disburses funds and also applies to any management company employing a managing agent or other employee charged with the operation or maintenance of the COC who controls or disburses funds.

### *Maryland Program Evaluation Act*

Approximately 70 regulatory entities and activities are subject to periodic evaluation under the Maryland Program Evaluation Act. The Act establishes a process better known as "sunset review" as most entities evaluated are also subject to termination. The sunset review process traditionally begins with a preliminary evaluation conducted by the Department of Legislative Services (DLS) on behalf of the Legislative Policy Committee (LPC), although a few entities are subject to direct full evaluation. LPC decides whether to waive an entity from further (or full) evaluation. If waived, legislation to reauthorize the entity typically is enacted. Otherwise, a full evaluation usually is undertaken the following year.

**Background:** According to the Community Associations Institute (CAI), about 50,000 to 55,000 individuals and 7,000 to 8,000 businesses offer community association management services in the United States. CAI is an international organization with approximately 62 local, state, regional, and international chapters comprising residential



community association members, property managers, community management firms, and other related professionals and companies that provide products or services to associations. CAI advises that it represents approximately 1,100 professional property managers and 80 community management companies who conduct business in the Washington, DC metropolitan area, including Maryland.

The Institute of Real Estate Management (IREM) is a real estate management association with more than 20,000 individual members and more than 570 corporate members. Its credentialed membership program offers the following designations: Certified Property Manager, Accredited Residential Manager, Accredited Commercial Manager, and Accredited Management Organization. IREM has members in both the multifamily and commercial real estate sectors. There are 570 individuals with IREM membership in the State. IREM advises that all of these individuals are not property managers. Specifically, associate members (125 members), academic members (1 member), and student members (10 members) may not be managing property. The remaining members are credentialed, which requires specified education levels, the completion of professional competency and ethics examinations, experience in the field of real estate management, and an application fee.

The bill requires applicants for a license to (1) be a holder of a limited license; (2) complete a board-approved training program and pass an examination; and (3) have been actively engaged in providing management services for at least 12 months before applying for a license *or* hold a board-approved active professional designation. CAI and IREM both offer nationally recognized accreditation programs.

According to CAI, nine states and the District of Columbia regulate the licensure of COC managers. For example, in Virginia, COC managers are required to have a specified license and certificates to manage COCs in the state. Virginia's fee schedule for COC licenses includes an initial Common Interest Community Manager Application fee of \$100, accompanied by a \$25 recovery fund fee, if applicable, and an annual assessment. The annual assessment is equal to the lesser of \$1,000 or 0.05% of the gross receipts from common interest community management during the preceding year. Each year, a manager must renew the license at a cost of \$100 plus the annual assessment.

Revenues from the registration fees assessed in Montgomery County have totaled \$676,000 to date in fiscal 2017. In Prince George's County, approximately 700 COCs are registered annually; however, the county collects the \$100 registration fee only from the property management companies that operate COCs, of which there are approximately 60 in the county. Thus, registration revenues in Prince George's County total about \$6,000 annually.

The Secretary of State advises that, in 2016, there were 2,859 condominium regimes in the State, and the State Department of Assessments and Taxation reports that there were

222,664 condominium units. The Foundation for Community Association Research estimated that there were 6,600 community associations in the State in 2015. For more information on COCs generally, see the **Appendix – Common Ownership Communities**.

**State Fiscal Effect:**

*Staffing Needs*

Despite the bill’s October 1, 2017 effective date, DLS assumes that licensing and registration activity cannot begin until fiscal 2019 at the earliest. Given the breadth of the regulatory program and its experience with other regulatory boards, DLLR advises that three and one-half staff are necessary to fully implement the program in fiscal 2019. Ordinarily, fewer staff would be hired during the start-up period. However, given that the bill requires a “grandfathering” period prior to the start of licensing and limited licensing activities, administrative, executive, and clerical staff are needed as soon as possible. Thus, an executive director, administrative specialist, a licensing and regulatory investigator, and part-time assistant Attorney General are needed to develop regulations and procedures, including investigatory procedures; implement the licensing, limited licensing, and registration program; process applications and review and investigate evidence related to the grandfather exception; and undertake other such preparatory activities.

Accordingly, general fund expenditures increase by \$341,938 in fiscal 2018, which accounts for the bill’s October 1, 2017 effective date. Special fund expenditures increase by \$366,423 in fiscal 2019 as shown below. This estimate includes salaries, fringe benefits, one-time start-up costs including computer programming costs, and ongoing operating expenses – including an indirect cost allocation beginning in fiscal 2019.

|                                 | <b>GF</b>             | <b>SF</b>             |
|---------------------------------|-----------------------|-----------------------|
|                                 | <b><u>FY 2018</u></b> | <b><u>FY 2019</u></b> |
| Positions                       | 3.5                   | 3.5                   |
| Salaries and Fringe Benefits    | \$196,614             | \$268,405             |
| Other Operating Expenses        | 145,324               | 68,018                |
| Indirect Costs                  | <u>0</u>              | <u>30,000</u>         |
| <b>Total State Expenditures</b> | <b>\$341,938</b>      | <b>\$366,423</b>      |

Future year expenditures reflect full salaries with annual increases and employee turnover, as well as annual increases in ongoing operating expenses. The estimate does not include any reimbursement for board members.

### *Direct and Indirect Expenditures*

The above expenditures reflect the direct costs of regulating COC managers and the indirect costs that DLLR attributes to each regulatory program within the Division of Occupational and Professional Licensing for the use of division and departmental resources.

Direct costs include necessary expenditures for personnel, equipment and supplies, contractual services, travel expenses, and fixed charges. Indirect costs – such as usage of the central licensing system, general services offices, and a portion of the salaries of some senior staff – are allocated to each program by a formula based on the program’s usage of these services. Thus, DLLR advises that special fund expenditures for indirect costs under the bill are anticipated to be approximately \$30,000 annually. DLS concurs with this estimate.

### *Revenues*

The bill provides for three main revenue sources for the fund: license fees, limited license fees, and application fees from COC managers. Although registration fees could be collected pursuant to a determination by the report submitted by DLLR, this estimate does not assume that a positive determination of the need for registration fees will be made. Therefore, all revenue collection begins when the licensing activity begins on October 1, 2018.

The bill requires the board to set reasonable fees that approximate the costs of its services. The bill also limits the ability of the board to raise fees if they are not set at a level to initially cover all costs (with the 12.5% limitation on raising fees each year). Due to the biennial licensing period and because most licensing activity will occur in odd-numbered fiscal years, the board must set its fees high enough to collect sufficient fee revenue in fiscal 2019 to allow it to cover its expenditures in both fiscal 2019 and 2020 – generally by carrying over a balance from the first year to the second year. Moreover, the board must generate sufficient revenue to also reimburse the general fund, over a period of time, for the start-up costs incurred in fiscal 2018. The ability of the board to set application fees by regulation should assist in covering ongoing costs and being able to reimburse the general fund; nevertheless, this analysis does not account for any such revenue or repayment, as the bill does not specify a repayment schedule.

As noted above, CAI estimates that 1,100 professional property managers and 80 community management companies conduct business in the Washington, DC metropolitan area, including Maryland. Due to the absence of more specific data, this estimate assumes that 1,100 individuals initially participate in the Maryland licensing program. However, the actual number of individuals subject to licensure may vary. DLLR

advises that it is likely to set the fee for both the license and the limited license at \$800 for a two-year period. Thus, revenues in fiscal 2019 total approximately \$880,000. DLLR further advises that it anticipates 1.2% annual growth in licensees, reflecting additional licenses being issued in other than renewal years.

**Exhibit 1** shows projected revenues and expenditures through fiscal 2022. This estimate also assumes, at least initially, that an individual seeking a license will not be required to pay the license fee twice, once for the limited license, and again for the full license. (The bill requires that any applicant for a license be a holder of a limited license issued by the board. DLS assumes that the majority of eligible individuals will be licensed, both as licensed managers and limited license holders in fiscal 2019, because the bill prohibits the unlicensed management of a COC.) In subsequent years, because an applicant for license renewal is not required to maintain that limited license, DLS assumes that the requirement is intended to apply to applicants who progress from holding a limited license to holding a “full” license after meeting other experience, educational, and examination requirements. Accordingly, DLS, assumes that DLLR waives the fee for a limited license in the first licensing cycle for individuals who are required to hold both types of licenses in order to comply with the bill’s licensing requirement.

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**Exhibit 1**  
**Projected Revenues and Expenditures of the Program**  
**Fiscal 2018-2022**

|                             | <u>FY 2018</u>   | <u>FY 2019</u>   | <u>FY 2020</u>   | <u>FY 2021</u>   | <u>FY 2022</u>   |
|-----------------------------|------------------|------------------|------------------|------------------|------------------|
| <b>Total Costs</b>          | <b>\$341,938</b> | <b>\$366,423</b> | <b>\$379,182</b> | <b>\$392,672</b> | <b>\$406,943</b> |
| Direct Costs                | 341,938          | 336,423          | 349,182          | 362,672          | 376,943          |
| Indirect Costs              | 0                | 30,000           | 30,000           | 30,000           | 30,000           |
| <b>Anticipated Revenues</b> | <b>0</b>         | <b>880,000</b>   | <b>10,560</b>    | <b>901,247</b>   | <b>10,815</b>    |
| <b>Annual Surplus</b>       | <b>0</b>         | <b>513,577</b>   | <b>-368,622</b>  | <b>508,575</b>   | <b>-396,092</b>  |
| <b>Cumulative Surplus</b>   | <b>0</b>         | <b>513,577</b>   | <b>146,955</b>   | <b>653,530</b>   | <b>257,438</b>   |

Note: In fiscal 2018, the board’s expenditures are assumed to be covered by general funds, resulting in no surplus at year-end. The \$341,938 in expenditures for that year could be repaid over several years from excess revenues in the fund balance. However, as illustrated above, revenues in the first year of each licensing cycle must be used to help cover costs in the second year.

Source: Department of Legislative Services

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Based on the fee proposed by DLLR, the board’s fund balance will be sufficient to sustain the board through at least fiscal 2022, with enough revenue to reimburse the general fund for expenditures in the first year of operation by fiscal 2021, if the estimated population SB 530/ Page 12

subject to licensure is realized and increases in accordance with the projection in this fiscal estimate.

It should be noted that the bill also authorizes the board to set a reinstatement fee as well as a fee for the granting of reciprocity to an out-of-state COC manager. However, any revenue attained from these fees is expected to be minimal and is not included in this analysis.

**Small Business Effect:** As noted above, small business expenditures increase by at least \$800 for required licenses, as well as potentially significant costs associated with board-approved training and required exams or attaining specified professional credentialing.

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### **Additional Information**

**Prior Introductions:** HB 10 of 2014 was withdrawn after a hearing in the House Environmental Matters Committee. HB 576 of 2013, a substantially similar bill as amended, passed the House. However, the cross filed SB 794 received an unfavorable report from the Senate Judicial Proceedings Committee

**Cross File:** None designated; however, HB 1193 (Delegate Holmes – Economic Matters) is identical.

**Information Source(s):** Montgomery and Prince George’s counties; Office of the Attorney General (Consumer Protection Division); Secretary of State; Department of Budget and Management; Department of Labor, Licensing, and Regulation; Secretary of State; Community Associations Institute; Foundation for Community Association Research; Institute of Real Estate Management; Department of Legislative Services

**Fiscal Note History:** First Reader - February 15, 2017  
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## Appendix – Common Ownership Communities

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When a person purchases a single-family home, a condominium, or an interest in a cooperative housing corporation, he or she may also be required to join an association of owners, which is intended to act in the common interests of all the homeowners, condominium unit owners, or cooperative owners in the community. Collectively, these associations are often referred to as common ownership communities (COCs). In Maryland, a growing number of newly constructed or newly converted residences are located in some form of COC.

The affairs of a condominium are governed by a council of unit owners, which comprises all unit owners. Among other powers, the council of unit owners has the power to impose assessments on the unit owners to pay common expenses. A council of unit owners may delegate its powers to a board of directors, officers, or a managing agent. Condominiums are governed under Title 11 of the Real Property Article.

Many new housing developments are subject to a homeowners association (HOA) that is created by a governing document and has the authority to impose mandatory fees on lots in the development in connection with the provision of services or for the benefit of the lots, the lot owners, or the common areas. HOAs are governed under Title 11B of the Real Property Article.

A cooperative housing corporation or “cooperative” is a corporation that owns real property. A resident of a cooperative does not own his or her unit; rather, the person owns an interest in the corporation, which leases the unit to the person for residential use. Cooperatives are governed by the laws in Title 5, Subtitle 6B of the Corporations and Associations Article.

Condominiums and HOAs may be authorized by their governing documents to impose liens on units or lots to collect unpaid assessments or fees. In a cooperative, the governing documents usually provide for the collection of delinquent fees, and evictions for unpaid fees are generally pursued by way of a landlord-tenant action.

Since registration of the various COCs is not required statewide, the exact number of COCs in Maryland is unknown. However, public offering statements for condominium regimes are required by law to be registered with the Secretary of State (SOS). Statewide for 2016, the SOS registration records show that there are 2,859 condominium regimes, and the State Department of Assessments and Taxation, which maintains assessment records based on class of property, reports that there are 222,664 condominium units. The Foundation for Community Association Research estimated that there were 6,600 community associations in the State in 2015.

### *Task Force on Common Ownership Communities*

With a growing number of Marylanders residing in COCs, and evidence that some COCs had issues with governance, dispute resolution, and financial stability, the General Assembly created the Task Force on Common Ownership Communities in 2005 (Chapter 469 of 2005). The issues addressed by the task force included the education and training needs of COC boards and prospective buyers, availability of alternative dispute resolution services, special considerations of aging COCs, collection of assessments, and resale of homes within COCs. The task force met 10 times, held five public hearings, and submitted its final report in December 2006. The report's findings and recommendations have served, in subsequent years, as the basis for numerous pieces of legislation intended to improve the operation of COCs. This legislation, enacted from 2007 through 2016, accomplished the following:

- authorized a group of three or more unit or lot owners in a condominium or HOA to petition a circuit court to appoint a receiver in specified situations frequently found in aging communities (Chapter 321 of 2007);
- gave the Consumer Protection Division within the Office of the Attorney General increased authority over violations of the Maryland Homeowners Association Act (Chapter 593 of 2007);
- eased restrictions on the ability of certain older HOAs to amend their governing documents by allowing an amendment at least once every five years by a specified percentage of votes (Chapters 144 and 145 of 2008);
- strengthened the transition process from developer to the governing body of a condominium or HOA by allowing the governing body to terminate specified contracts and requiring the developer to provide specified documents (Chapters 95 and 96 of 2009);
- required the governing body of a COC to purchase fidelity insurance or a fidelity bond covering various acts of malfeasance by COC officers, directors, and other specified employees and agents (Chapters 77 and 78 of 2009 and Chapter 615 of 2010);

- granted priority to a specified portion of a lien of a condominium or HOA over the claim of a holder of a first mortgage or first deed of trust in the event of a foreclosure on a unit or lot (Chapter 387 of 2011);
- limited the amount of damages for which the governing body of a condominium or HOA may foreclose on a lien against a unit owner or lot owner (Chapters 448 and 449 of 2013);
- expanded the purposes for which a condominium's board of directors may hold a closed meeting, similar to the law for an HOA, by allowing a meeting to be closed to consider terms or conditions of a business transaction in the negotiation stage if disclosure could adversely affect the economic interests of the council of unit owners (Chapter 110 of 2013);
- established meeting standards and standards for late charges for delinquent payments, eviction restrictions, an auditing process for books and records, and a dispute settlement mechanism for cooperatives under specified circumstances (Chapter 567 of 2014); and
- altered the contents of a required disclosure for the resale of a condominium unit, authorized the assessment of specified fees by a condominium council of unit owners or an HOA for providing specified information, set limits on those fees, and required the Department of Housing and Community Development to adjust the maximum authorized fees every two years (Chapter 735 of 2016).

The task force's report also featured findings and recommendations relating to the creation of an ombudsman in local governments. Since the report's release, Prince George's County created its Common Ownership Communities Program in 2007 with the stated purpose of assisting governing bodies as well as owners and residents of HOAs, residential condominiums, and cooperative housing corporations with education, training, and alternative dispute resolution. Charles and Montgomery counties have offices dedicated to COCs that predate the task force.

Finally, findings and recommendations of the report that have not been codified in statute include reserves of COCs, an insurance deductible cap for unit owners, and the uniformity of COC depository requirements.