

**Department of Legislative Services**  
Maryland General Assembly  
2018 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

House Bill 575

(Delegate Holmes)

Environment and Transportation

Judicial Proceedings

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**Condominiums - Suspension of Use of Common Elements**

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This bill authorizes a declaration of a condominium to provide for the suspension of the use of parking or recreational facility common elements by a unit owner that is more than 60 days delinquent in paying assessments. The bill authorizes the council of unit owners to amend the declaration to add or repeal such a suspension provision by the affirmative vote of at least 60% of the total eligible voters of the condominium.

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**Fiscal Summary**

**State Effect:** The bill is not anticipated to materially impact State finances or operations.

**Local Effect:** The bill is not anticipated to impact local government finances or operations.

**Small Business Effect:** Minimal.

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**Analysis**

**Bill Summary:** If a declaration contains a suspension provision, the declaration must specifically state that a suspension of the use of common elements may not be implemented until the council of unit owners (1) mails to the unit owner a demand letter specifying a time period of at least 10 days within which the unit owner may pay the delinquent assessment or request a hearing to contest the suspension and (2) if a unit owner requests a hearing to contest a suspension, provides notice and holds a hearing in accordance with specified dispute settlement procedures.

**Current Law:** “Common elements” means all of the condominium except the units. “Limited common elements” means those common elements identified in the declaration

or on the condominium plat as reserved for the exclusive use of one or more but not all of the unit owners. “General common elements” means all the common elements except the limited common elements.

### *Amending a Declaration*

Generally, the declaration of a condominium may be amended only with the written consent of 80% of the unit owners listed on the current roster. Other specified procedures enable the council of unit owners to correct the improper assignment of the percentage interests in the common elements, common expenses, and common profits, or a typographical error in a declaration. Amendments to the declaration of a condominium with the written consent of the unit owners listed on the roster are subject to specified limitations.

### *Dispute Settlement Mechanism*

The council of unit owners or board of directors may not impose a fine, suspend voting, or infringe upon any other rights of a unit owner or other occupant for violations of rules until a written demand to cease and desist is served upon the alleged violator that specifies (1) the alleged violation; (2) the action required to abate the violation; and (3) a time period of at least 10 days during which the violation may be abated without further penalty.

Within 12 months of a demand, if a violation continues beyond the abatement period, or if the same rule is subsequently violated, the alleged violator must be served with written notice of a hearing to be held by the board in session. The notice must (1) explain the nature of the alleged violation and the proposed sanction; (2) include the time and place of the hearing, which may not be less than 10 days from the date notice is given; and (3) inform the alleged violator of the opportunity to attend the hearing and produce any statement, evidence, and witnesses on his or her behalf.

The hearing must be held in executive session and provide the alleged violator a reasonable opportunity to be heard. Prior to imposing any sanction, the board of directors must place in the minutes of the meeting proof of the notice provided to the alleged violator. The meeting minutes must also contain the results of the hearing and the details of any sanction imposed. An alleged violator may appeal a decision of the governing body in court.

**Background:** In *Elvaton Towne Condominium Regime II, Inc., et al. v. William Kevin Rose, et ux.*, 453 MD. 684 (2017), the Court of Appeals held that, while the Maryland Condominium Act does not preclude “suspension-of-privileges” methods as a means of enforcing collection of delinquent fees, such means must have been agreed to by the unit owners and incorporated *into the declaration*. Where the means of collection is established by a rule, enacted by only a majority of the condominium association’s governing council

or board of directors rather than through an amendment to the declaration, the means of collection is invalid as an interference in property rights beyond the power of the condominium's governing body to impose.

The Secretary of State advises that, in 2017, there were 2,875 condominium regimes in the State, and the State Department of Assessments and Taxation reports that there were 225,947 condominium units.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Secretary of State; State Department of Assessments and Taxation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 9, 2018  
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