

HOUSE BILL 414

N1, C1
HB 680/18 – ENV

9lr1353
CF SB 724

By: **Delegates Healey, Cullison, Glenn, Haynes, Holmes, Ivey, J. Lewis, R. Lewis, Shoemaker, and Stein**

Introduced and read first time: January 30, 2019

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 26, 2019

CHAPTER _____

1 AN ACT concerning

2 **Cooperative Housing Corporations – Dispute Settlement and Eviction**
3 **Procedures**

4 FOR the purpose of specifying that a certain dispute settlement mechanism does not apply
5 to complaints or demands arising out of a cooperative housing member's failure to
6 pay certain assessments; repealing a requirement that the governing body of a
7 cooperative housing corporation hold a hearing on a certain alleged violation under
8 certain circumstances; requiring the governing body of a cooperative housing
9 corporation to give certain notice of a member's right to request a hearing on a
10 certain alleged violation under certain circumstances; requiring the governing body
11 of a cooperative housing corporation to hold a certain hearing if a member requests
12 a hearing under certain circumstances; ~~repealing a certain provision requiring the~~
13 ~~governing body of a cooperative housing corporation to place proof of a certain notice~~
14 ~~in the minutes of a certain meeting before imposing any sanction on a member;~~
15 requiring the governing body of a cooperative housing corporation to deliberate on a
16 certain matter and decide whether a certain sanction is appropriate if a member does
17 not request a hearing under certain circumstances; repealing a certain provision that
18 prohibits the governing body of a certain cooperative housing corporation from
19 bringing an action in court to evict a member based solely on the member's failure to
20 pay certain assessments under certain circumstances; altering the date on and after
21 which a certain dispute settlement mechanism applies under certain circumstances;
22 providing for the application of this Act; and generally relating to dispute settlement
23 and evictions in cooperative housing corporations.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, with amendments,
2 Article – Corporations and Associations
3 Section 5–6B–30
4 Annotated Code of Maryland
5 (2014 Replacement Volume and 2018 Supplement)

6 BY repealing
7 Article – Corporations and Associations
8 Section 5–6B–31
9 Annotated Code of Maryland
10 (2014 Replacement Volume and 2018 Supplement)

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

13 **Article – Corporations and Associations**

14 5–6B–30.

15 (a) (1) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
16 **SUBSECTION, THE** dispute settlement mechanism provided by this section applies to any
17 complaint or demand formally arising on or after ~~January 1, 2015~~ **OCTOBER 1, 2019**,
18 unless the bylaws of the cooperative housing corporation or the proprietary lease of the
19 member who is a party to the dispute state otherwise.

20 (2) **THE DISPUTE SETTLEMENT MECHANISM PROVIDED BY THIS**
21 **SECTION DOES NOT APPLY TO COMPLAINTS OR DEMANDS ARISING OUT OF A**
22 **MEMBER’S FAILURE TO PAY ASSESSMENTS OWED TO THE COOPERATIVE HOUSING**
23 **CORPORATION.**

24 (b) (1) Except as provided in this subsection, a governing body may not impose
25 a fine, suspend voting, bring an action in court to evict, or infringe on any other rights of a
26 member for a violation of:

27 (i) The rules of the cooperative housing corporation; or

28 (ii) The provisions of the member’s proprietary lease.

29 (2) The governing body shall [serve] **PROVIDE** the member with a written
30 demand to cease and desist from the alleged violation specifying:

31 (i) The alleged violation;

32 (ii) The action required to abate the violation; and

1 (iii) 1. A time period of not less than 10 days during which the
2 violation may be abated without further sanction if the violation is a continuing one; or

3 2. A statement that any further violation of the same rule
4 may result in the imposition of sanction after notice and **THE OPPORTUNITY FOR A**
5 hearing if the violation is not continuing.

6 (3) (i) If the violation continues past the period specified under
7 paragraph (2)(iii)1 of this subsection, or if the same rule is violated subsequently, the
8 governing body shall [serve] **PROVIDE** the member with written notice of **THE MEMBER'S**
9 **RIGHT TO REQUEST** a hearing to be held by the governing body in session.

10 (ii) The [hearing] notice shall specify:

11 1. The nature of the alleged violation;

12 2. [The time and place of the hearing, which time may be not
13 less than 10 days from the giving of the notice;

14 3. An invitation to attend the hearing and produce any
15 statement, evidence, and witnesses on behalf of the member; and

16 4.] The proposed sanction to be imposed;

17 **3. THE PROCEDURE FOR REQUESTING A HEARING; AND**

18 **4. THE TIME FRAME FOR REQUESTING A HEARING,**
19 **WHICH MAY NOT BE LESS THAN 10 DAYS BEGINNING ON THE DATE OF THE NOTICE.**

20 (4) (i) [The] **IF THE MEMBER REQUESTS A HEARING WITHIN THE**
21 **TIME FRAME SPECIFIED IN THE NOTICE GIVEN UNDER PARAGRAPH (3) OF THIS**
22 **SUBSECTION, THE** governing body shall hold a hearing on the alleged violation in
23 executive session[, in accordance with the notice provided under paragraph (3) of this
24 subsection].

25 **(II) THE GOVERNING BODY SHALL GIVE THE MEMBER AT LEAST**
26 **10 DAYS' WRITTEN NOTICE OF THE TIME AND PLACE OF THE HEARING.**

27 [(ii)] **(III)** At the hearing, the member shall have the right to present
28 evidence and to present and cross-examine witnesses regarding the alleged violation.

29 ~~[(iii)]~~ **(IV)** Prior to imposing any sanction on the member, the
30 governing body shall place in the minutes of the meeting proof of the notice provided to the
31 member under paragraph (3) of this subsection, which shall include:

1 1. A copy of the notice, together with a statement of the date
2 and manner of ~~the delivery of~~ **PROVIDING** the notice; or

3 2. A statement that the member in fact appeared at the
4 hearing.†

5 ~~(iv)~~ **(V)** The governing body shall place in the minutes of the
6 meeting the results of the hearing and the sanction, if any, imposed on the member.

7 **(5) IF THE MEMBER DOES NOT REQUEST A HEARING WITHIN THE TIME**
8 **FRAME SPECIFIED IN THE NOTICE GIVEN UNDER PARAGRAPH (3) OF THIS**
9 **SUBSECTION, THE GOVERNING BODY, AT THE NEXT MEETING, SHALL DELIBERATE**
10 **AS TO WHETHER THE VIOLATION OCCURRED AND DECIDE WHETHER A SANCTION IS**
11 **APPROPRIATE FOR THE VIOLATION.**

12 (c) A member may appeal a decision of a governing body made in accordance with
13 the dispute settlement procedure described in this section to the courts of Maryland.

14 (d) (1) If a member fails to comply with this subtitle, the bylaws of a
15 cooperative housing corporation, or a decision rendered by the governing body in accordance
16 with this section, the governing body or any other member of the cooperative housing
17 corporation may sue the member for any damages caused by the failure or for injunctive
18 relief.

19 (2) The prevailing party in a proceeding authorized under this subsection
20 is entitled to an award for reasonable attorney's fees as determined by court.

21 (e) The failure of a governing body to enforce a provision of this title, the
22 proprietary lease of a member, or the bylaws of the cooperative housing corporation on any
23 occasion is not a waiver of the right to enforce the provision on any other occasion.

24 [5-6B-31.

25 (a) This section applies only to a cooperative project that is no longer subject to a
26 mortgage or deed of trust.

27 (b) Notwithstanding the articles of incorporation, bylaws, or regulations of a
28 cooperative housing corporation or the proprietary lease of any member, a governing body
29 may not bring an action in court to evict a member based solely on the failure of the member
30 to pay assessments owed to the cooperative housing corporation unless:

31 (1) The member has been delinquent in paying assessments for a period of
32 3 months or more;

33 (2) The governing body has given the member notice and an opportunity to
34 be heard regarding the delinquency, consistent with § 5-6B-30 of this subtitle;

1 (3) The governing body has given the member an opportunity to cure the
2 delinquency; and

3 (4) The member has failed to cure the delinquency.]

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
5 apply only prospectively and may not be applied or interpreted to have any effect on or
6 application to any complaint or demand formally arising under the rules of a cooperative
7 housing corporation or the provisions of a member’s proprietary lease before the effective
8 date of this Act, unless the bylaws of the cooperative housing corporation or the proprietary
9 lease of the member who is a party to the dispute states otherwise.

10 SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2019.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.